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# PACIFIC SALMON STOCK AND MAGNUSON ACT

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Pacific Salmon Stock and Magnuson A...

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## COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

THE DECLINE OF THE PACIFIC SALMON IN THE PACIFIC NORTHWEST, AND THE REAUTHORIZATION OF THE MAGNUSON ACT WHICH GOVERNS THE CONSERVATION AND MANAGEMENT OF THE COUNTRY'S FISHERIES RESOURCES

AUGUST 10, 1993—PORTLAND, OR

Serial No. 103-55

Printed for the use of the Committee on Merchant Marine and Fisheries



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# PACIFIC SALMON STOCKS AND THE MAGNUSON ACT

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TUESDAY, AUGUST 10, 1993

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON MERCHANT MARINE AND FISHERIES,  
*Portland, OR.*

The Committee met, pursuant to call, at 9:30 a.m., in the City Council Chambers, City Hall, Portland, Oregon, Hon. Gerry E. Studds (Chairman of the Committee) presiding.

Present: Representatives Studds, Manton, Unsoeld, Andrews, Furse, Hamburg, and Cantwell.

Also Present: Representative Wyden.

Staff Present: Sue Waldron, Press Secretary; Jean Flemma, Professional Staff; Tom Lyons, Professional Staff; Jim Mathews, Professional Staff; Lesli Gray, Professional Staff; Eleanor Mohler, Assistant Clerk; Cyndy Wilkinson, Minority Chief Counsel; Rod Moore, Minority Professional Staff; and Margherita Woods, Minority Clerk.

Chairman STUDDS. The Committee will come to order. Before we begin with our own opening observations, I want to acknowledge Commissioner Mike Lindberg who is here to welcome us to this church-like setting.

## STATEMENT OF MIKE LINDBERG, COMMISSIONER, ENVIRONMENTAL SERVICES AND BUREAU OF WATER WORKS

Mr. LINDBERG. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, welcome to the city of Portland. I am Mike Lindberg on the Portland City Council, and I am also Commissioner of Environmental Services and the Bureau of Water Works. It is a great honor for me personally to be able to welcome you.

I have followed the careers of many of the members of this committee, have admired your work for a long time and had an opportunity to meet a number of you last night. I also bring warm greetings from our outstanding new mayor, Vera Katz, and under our unique form of government, as I mentioned, she designates members of the council to administer certain areas, and Environmental Services and Water is mine.

Fortunately, the mayor has made environmental issues a very high priority on her agenda. She appreciates the statement that you make actually by coming to the city of Portland today and the City Hall.

Mr. Chairman, in Portland we understand and appreciate the work of the Merchant Marine and Fisheries Committee, and as a matter of fact, we admire your efforts so much that we sent you our best, Congresswoman Furse, to help you in your work. We know that you now have a new champion for the causes which we all care so much about in Oregon.

Mr. Chairman, the value to Portland of the work you do cannot be overstated. Your efforts on fisheries, wildlife, endangered species, clean water refuges, conservation, coastal zone management and many others give us considerable hope for the future and particularly with a new administration that is so aligned with many of our views.

Just a few weeks ago you could have walked five blocks down from where we are today to the Willamette River and seen people catching chinook salmon. The run of spring chinook was nearly eliminated by water pollution in the past, but under the leadership of former governor, Tom McCall, we were able to clean up the Willamette River in the 1970's and the salmon returned.

Those salmon represent an important part of our heritage. They sustained the native Americans who lived here first, and when the first immigrants arrived on the Oregon Trail, the salmon helped them survive that first winter.

Because our carelessness almost caused the salmon to disappear, the fish serve as a symbol for our continued need to guard our rivers carefully. Our first campaign to stop water pollution was back in 1938 when a citizen-led initiative drive led to the creation of the State Sanitary Authority to regulate sewage treatment, and one member of the group was interested in movies and persuaded Kodak to send up some of the very first colored motion picture film and they made a movie that showed how polluted our river was at that time.

One particularly vivid scene showed fingerling trout dying within seconds of being placed in the dirty river water. Since then we have worked with industry and agriculture to eliminate most of that pollution. It is our current experience, which combined sewer overflows and storm water discharges show, the work to keep the rivers clean is not over yet.

In conclusion, I would say that Oregonians love the rivers. We take our children fishing; show off the Willamette to out-of-town visitors; we ride the stern wheeler; we walk across the river's bank; and we have functions as we did last evening with the committee overlooking the beautiful river. Probably more than anything, we look at the river and it reminds us of how lucky we are to live here, and we thank you so much for taking the time to come on this field visit to our State.

Thank you very much.

**STATEMENT OF THE HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES**

Chairman STUDDS. Thank you very much, Commissioner. Thank you for your kindness in making this space available to us.

It looks to me like a propitious space for the City Council to operate in. People would not be surprised if you took a collection given the seating arrangements. A New Englander is reminded of church. Perhaps it makes it less painful when you are required to take an occasional collection.

You are also very brave to subject yourself to eight Members of Congress, at least I think we are eight, the Committee on Merchant Marine and Fisheries and our hostess and guests from the Pacific Northwest from other committees in the Congress, Congressmen Hamburg and Wyden seem to have their own departments operating here. I don't know if they are the judge and the jury or what. We have a long morning in front of us.

We will have two panels, one focused on the crisis for the salmon and the other on the Magnuson Act itself. We are going to hear them as entire panels. First, however, you need to be subjected to us because that is our way in terms of opening statements. I am going to try to be very brief myself and ask my colleagues to do so as well.

We have three hours, we are on a precisely timed schedule, and people will lasoo us out of here promptly whether we are ready or not.

We meet today to hear testimony, as I said, on two issues that are of vital importance to this committee and particularly to the Pacific Northwest. First, the decline of Pacific salmon, a problem that in spite of all the attention it has received is as yet, as you very well know, unsolved; and second the reauthorization of the Magnuson Act, the law that governs the conservation and management of the country's fisheries resources.

The 103rd Congress faces decisions more fundamental than any in recent memory. Not only the budget and health care but environmental and natural resource management decisions with immensely important and far-reaching repercussions. Within the reauthorization of the Magnuson Act our choices could determine the very survival of the small family fishermen here and elsewhere around the country, and within the Endangered Species Act and the Clean Water Act, the survival of species such as salmon and indeed of entire ecosystems and maybe even of us.

Nowhere are these decisions more clearly highlighted than here in the Northwest. You all were probably brought up on the famous excerpts from Lewis and Clark detailing salmon too numerous to count in your rivers. Today, as you know better than we, the number of wild salmon can be indeed counted on the fingers of one hand in some cases, if at all.

Many people believe that if we do not act now, the opportunity to save these fish will be gone forever, and gone with it, even those who don't hail from the Pacific Northwest understand, would then be a way of life that has since time immemorial defined this region and its people.

The causes of this decline are extraordinarily complex, and no one can be singled out. We are all told the famous four "H's" are to blame—hydropower, hatcheries, habitat loss and harvest. The solution is locked clearly somewhere in words like ecosystem and watershed, but we haven't decoded that secret yet.

One thing fishermen and environmentalists understand all too well is being nicked and dined to death, a road here, a dam there, a channel in the middle, a levee on the side. Day in and day out the environment gets chipped away until one day we wake up and find that the wild salmon are literally disappearing.

Managing our resource crises one species at a time will not work at all. We need, in the words of the new Secretary of the Interior, to approach these issues on a much broader basis—on an ecosystem basis and on a watershed basis. Federal and State agencies must coordinate recovery efforts and act with one purpose if we are going to pull this off.

We are going to go briefly, momentarily, to our first panel of people with responsibilities at those two levels to see what they have to suggest to us.

If I may now turn to the Member of Congress whom you have so wonderfully sent to this committee who is our host at this point, your Congressperson Elizabeth Furse.

**STATEMENT OF THE HON. ELIZABETH FURSE, A U.S.  
REPRESENTATIVE FROM OREGON**

Ms. FURSE. Thank you, Mr. Chairman. I am delighted to have the opportunity to welcome this committee to Portland, and to welcome our witnesses to the hearing. I really do want to thank the Members of Congress who have traveled from such a long way to make this field hearing possible.

I want to take a moment to applaud the efforts of Congresswoman Jolene Unsoeld in her quest to move the National Marine Fisheries Service into the Department of Interior. Her breadth of knowledge on this issue is acknowledged throughout the Congress, and I share her concerns and look forward to working with her on these critical issues in the future.

Today we will be addressing two of the most critical and important and difficult issues in our fisheries. Actually there are more than two issues, but we will be addressing the Magnuson Act and how to restore Pacific salmon. Those are very complex questions and issues.

The Magnuson Act, as you know, was written for two main purposes—to develop the U.S. fishing industry and to conserve and manage those fisheries. From 1976 to today, it has been a very rough ride, trying to achieve and balance both of those goals.

The issues of overfishing, of bycatch, of allocation decisions, the council system habitat protection, just to name a few of the issues that have been consistently raised as we address the issue of reauthorization. I expect we will hear about several of those issues and hopefully we will receive recommendations on how we might address the problems described.

It is no secret that I originally asked for a field hearing on the Magnuson Act because of the decision of the Department of Commerce to overturn at the very last moment the Pacific whiting allocation recommendations of the Pacific Fishery Management Council. This system of regional management fishery councils was developed because it was recognized that those who work in the area probably know a great deal more than officials sitting in Washing-

ton, D.C. While the first panel will give comments on all aspects of the Magnuson Act, I am very, very interested in seeing if there are ways that we can avoid the short-circuiting in the future of this process.

The voices of all those who contributed to the council's recommendation, in my belief, went unheard when the department virtually ignored the Pacific Whiting Council proposal. I hope some of our witnesses today have suggestions of how we might address this problem.

Our Pacific salmon situation is reminiscent of the many-headed Hydra of Greek mythology. Numerous separate authorities control a multitude of factors that are the key to the survival and the enhancement of our Pacific salmon stocks. The activities of each of those separate authorities must be addressed individually, but they must also be addressed in a coordinated fashion.

I am pleased that in our second panel we are able to obtain witnesses representing several of the heads of the Pacific salmon hydra. I am anxious to hear the testimony of all our witnesses, and again, Mr. Chairman, I want to thank you for granting this hearing in this place at this time.

Thank you.

Chairman STUDDS. Thank you very much. Now I would recognize the Chairman of the Fisheries Management Subcommittee, Congressman Tom Manton of New York.

**STATEMENT OF THE HON. THOMAS J. MANTON, A U.S. REPRESENTATIVE FROM NEW YORK, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES MANAGEMENT**

Mr. MANTON. Thank you, Mr. Chairman, and thank you for putting together this trip to the Pacific Northwest. As the new Chairman of the Fisheries Management Subcommittee which was formed at the beginning of this Congress, I look forward to this hearing. And, coming out here to the beautiful Pacific Northwest with such beautiful weather, it gives me a good opportunity to get out of a hot, steamy, muggy city called New York.

I am also particularly pleased to be here in the City Council Chamber. Having spent some 15 years in the New York City Council, the scale, the size of the room and the intensity of the witnesses always impresses me at the local level. I am blessed that on my subcommittee I have a wealth of experience with—I will call her our hostess—Elizabeth Furse and Jolene Unsoeld, Dan Hamburg and Maria Cantwell, all from the Pacific Northwest. We also have with us today our great colleague on the Merchant Marine and Fisheries Committee from the other side of the country, Maine, Tom Andrews. Of course, we are also honored by the presence of Ron Wyden, who is not on our committee, but is a distinguished member from your State of Oregon. We serve together on the Energy and Commerce Committee, as our major committee, and have closely on a number of issues under that committee's jurisdiction.

I look forward to hearing the testimony of the witnesses. We have had some—I think three—hearings in Washington already on the reauthorization of the Magnuson Act. We know that the Act

can be improved. So we are here in your territory to listen to your views and sparing you the arduous trip to Washington.

So without further ado, I will yield back the balance of my time and look forward to hearing testimony on both salmon stock restoration, as well as the reauthorization of the Magnuson Act.

Thank you, Mr. Chairman.

Chairman STUDDS. If I look a little befuddled, it is because normally at this time I alternate between recognizing Democratic Members of Congress on my right and Republicans on my left. This is quite refreshing. I will turn next to one of the stalwarts of our committee, Congresswoman Jolene Unsoeld of Washington State.

**STATEMENT OF THE HON. JOLENE UNSOELD, A U.S.  
REPRESENTATIVE FROM WASHINGTON**

Mrs. UNSOELD. Thank you, Mr. Chairman. It is with enormous enthusiasm that I welcome this committee here because it is not only that we have enjoyed a tremendously good working relationship between the Oregon and the Washington delegation, that river has not been a barrier but rather simply a means of transportation across which our ideas come, but for the first time we have representation from both States on this committee, and perhaps more than any other committee in the Congress, the economic and environmental well-being of the Pacific Northwest are inexorably intertwined with this committee.

So it is very, very fitting, and I particularly welcome the two chairmen of the full committee and the subcommittee that deals with many of our issues. Certainly some of the best reasons to live in this region are surrounding us. I don't know whether you saw Mount Hood this morning, but we do have magnificent mountains, and our vibrant waters, our forests, our fish, our wildlife; but as evident from headlines appearing almost daily in newspapers, we have often taken these resources for granted.

Examples include, as has already been mentioned, our once-mighty salmon runs and the watersheds from which they are spawned. Both are showing signs of neglect and are suffering from decades of mismanagement.

Our first panel of witnesses this morning has been invited to tell us how we have responded. Is it more of the traditional species-by-species Endangered Species Act approach that threatens to overwhelm the region or do we have in place an integrated region-wide plan to rebuild weak runs and ensure sustainable management into the future?

The second panel will give us an opportunity to discuss more broadly other fisheries issues involved in the reauthorization of the Magnuson Act. I should say the Magnuson-Studds act.

Chairman STUDDS. It depends on whether it is working or not.

Mrs. UNSOELD. Perhaps nowhere has the success of that Act been more evident than here in the Northwest. "Americanization" of the North Pacific bottom fisheries has pumped billions of dollars into our economy, created thousands of jobs, and helped make our fishing industry among the most modern and productive in the world.



But this success has not come without growing pains. As harvest capacity quickly exceeded sustainable harvest levels, fierce, high-stakes allocation battles have erupted. In the North Pacific, the winners get tens of millions of dollars worth of Federal resources and build new harvest capacity to reap their rewards; the losers tie their boats to the docks and search for other fisheries to keep their businesses afloat.

The enormity of such allocation decisions, whether it be pollock in the North Pacific, whiting in the Pacific, or salmon from the Klamath River, has brought increased scrutiny to the decisionmaking process established under the Magnuson Act. The Department of Justice and Inspector General have both investigated the councils and the National Marine Fisheries Service. Public confidence is also waning. A recent headline in the Oregonian labeled one decision as a "corporate takeover". Another in the Anchorage Times editorialized the whole council process as "ethically bankrupt".

These issues, Mr. Chairman, must be addressed during reauthorization of the Act. While I believe the councils' authority to originate management actions should be preserved, the Secretary's authority and the question of appropriate checks and balances within the process must be better defined if future management decisions are to truly reflect the needs of the resources and the Nation.

With strong direction and leadership from our committee, the industry can work toward consensus on these difficult issues. We have seen this with the recent agreement on future whiting allocations and with the consensus position on Magnuson Act issues that is evolving among representatives of the Washington-based industry.

Look forward to the panels and look forward to the interaction between this committee and the Pacific Northwest.

Thank you, Mr. Chairman.

Chairman STUDDS. My colleague from New England, Congressman Tom Andrews of Maine.

#### STATEMENT OF THE HON. THOMAS H. ANDREWS, A U.S. REPRESENTATIVE FROM MAINE

Mr. ANDREWS. Thank you, Mr. Chairman.

Probably the person that you need to hear from the least this morning is myself, so I will keep my comments very, very brief.

Let me just say that it is a tremendous pleasure to be here. I want to thank each and every one of you for sending a quality congressional delegation that you have sent to Washington, D.C., particularly Elizabeth Furse who has helped to make this all possible today, Jolene Unsoeld an outstanding Member of Congress, and it is a pleasure to work with them.

I am from the original Portland, Portland, Maine, and the last time I was in Portland, Oregon, was when I was nine-years-old. It has changed quite a bit in the last ten years, I must say. But while we may be on different coasts, we certainly have a lot in common. Certainly our dependence upon and connection to our natural resources, the importance that it has played in our economy and our culture and our heritage and certainly the critical role that it will

play in our future if we handle this resource properly are things that we have a great deal in common.

So it is a great pleasure for me to be here, Mr. Chairman.

I thank you for bringing us here, and I thank the Chairman of our subcommittee, Mr. Manton, for also traveling here with us, and I expect to learn a great deal.

Thank you.

Chairman STUDDS. I was afraid Ms. Unsoeld was going to start a battle, which we frequently have, about who has the more beautiful coastal district, which is particularly awesome. We would have inevitably heard from Mr. Hamburg from the Northern California coast.

Congressman Hamburg.

#### STATEMENT OF THE HON. DAN HAMBURG, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. HAMBURG. Thank you, Mr. Chairman. I would also like to thank the Chairman and subcommittee Chairman for bringing us to this event today, and also thank the members of the Pacific Northwest delegation for having this hearing today in Portland.

I also consider myself part of the Pacific Northwest delegation, representing the north coast of California, and indeed I represent three fishing ports: Crescent City, Eureka, and Fort Bragg; and the concerns that are going to be discussed at some length and hopefully with some illuminating consequences today are certainly the concerns that are very much at the top of the list in my district as well.

Congresswoman Furse mentioned the overturning of the decision of the PFMC on the Pacific whiting. There was also an overturning of the decision with respect to the Klamath River chinook which had devastating effects on particularly the small boat fishery out of those ports of Crescent City, Eureka, and Fort Bragg, so I am extremely concerned about the issues of salmon habitat, the overall health of this resource as it affects our economy, and, yes, our culture. I am extremely concerned about our work to reauthorize the Magnuson Act and make it a workable tool for bringing back these fisheries so that they can continue to be an important part of our regional economy and also continue to sustain the kind of life-style that we feel so strongly about here in the Pacific Northwest.

So thank you very much, Mr. Chairman. I, too, look forward to the panels and the discussion that we are going to have here this morning.

Chairman STUDDS. Another Northwestern from the city we are about to go to, Congresswoman Maria Cantwell of Washington, the other Washington, the real Washington.

#### STATEMENT OF THE HON. MARIA CANTWELL, A U.S. REPRESENTATIVE FROM OREGON

Ms. CANTWELL. Thank you, Mr. Chairman. I want to commend you and the committee staff for your hard work in planning this trip. After seeing the weather in Portland today I must say that the pressure is on. I hope Seattle produces this afternoon.

I greatly appreciate the interest that Chairman Studds and Chairman Manton and Mr. Andrews from the committee have shown in coming here on this trip, and of course my colleagues from the Northwest. Congresswoman Unsoeld has been a leader on many of these issues, and Congresswoman Furse for their sincere hard work already on behalf of what I think are some of the key economic issues for us here in the Northwest; and that Mr. Wyden would take time to join us this morning is an additional benefit to the concerns of all of us in the Pacific Northwest.

As of today, as was mentioned, the Merchant Marine and Fisheries Committee has held four hearings on the reauthorization of the Magnuson Act. I think we have heard as many opinions as we have heard testimonies from individuals, and I am sure that that will continue.

We are not alone in the Northwest in our concerns over the way the reauthorization process and bill will be made, but I am sure that our issues can be addressed. The legal backing of the Magnuson Act really did expand the fishing industry into what became a multi-billion dollar industry, and this is, I think, a very important point for us to realize as we continue to look at the reauthorization of this Act. Thousands of jobs are at stake, thousands of families' incomes are at stake, and that is why we should, in looking at this process today, take particular concern to the accountability of the council process in the public eye.

Is this council system really conducive to management schemes that are fair and equitable to all fishermen as written in the national standard number four?

The Magnuson Act clearly states that our American fishermen deserve the benefit from this national resource. We are losing a significant portion of our at-sea fleet now, and I do not believe that this was what the Act intended. The long-term sustainability will only continue through a management process that works and works well with predictability.

Mr. Chairman, I have a copy of a position paper on some of these points that I think represents a significant step in coalitions working together on this Act. I want to congratulate the Alaska Crab Coalition, the American Factory Trawler Association, the American High Seas Fishery Association, the Fishing Vessel Owners Association, and the Mid-water Trawlers Cooperative for putting this together, and I would respectfully request that it become part of our official record.

[The information may be found at end of hearing.]

Ms. CANTWELL. The other issue that we are here to address today, the Northwest salmon, is again a very critical economic issue for us in the Northwest. Those testifying this morning are some of the key players that will either give us the ability to act or cause the inaction on how we best preserve this great resource. We must take decisive action or we are in danger of losing the battle on salmon.

Mr. Chairman, I again want to thank you and the committee members for the willingness to understand how important these issues are economically to us in the Pacific Northwest and look forward to having you take the second leg of this journey up to Seattle.

Chairman STUDDS. Thank you very much. Finally, the other half of this city's representation in Congress, although not a member of our committee, a very close friend and colleague, Congressman Ron Wyden.

#### STATEMENT OF THE HON. RON WYDEN, A U.S. REPRESENTATIVE FROM OREGON

Mr. WYDEN. Mr. Chairman, thank you very much, and thank you particularly for the opportunity to testify. I have to be elsewhere this morning, but I am going to look at the full record after the hearing is over and appreciate the chance to testify.

I don't want to turn this into a bouquet tossing contest, but we are very much appreciative in the Northwest of your leadership, particularly last session, the tremendous work that you did on the taxol legislation that simply would not have happened without your work, and we are especially pleased that Congresswoman Furse is on the committee.

After the whiting decision came down, she told me that one of her priorities would be to get this committee to Portland to listen and to hear firsthand from Oregonians, and once again she has delivered, and we are very appreciative. I also want to thank my colleague across the river who brings real meaning to the idea of hands across the water. We have had a team in this delegation across the river with Oregon and Washington, and like Congresswoman Furse I want Jolene Unsoeld to know that we recognize that she is a national influence on fishing issues, and we are appreciative.

Mr. Chairman, I just make a couple of quick points and ask unanimous consent that my statement be entered into the record. Let me say that for many Oregonians preserving our salmon runs ranks just behind concern for the first born. We believe that health of our salmon is an important barometer of our society's health, and losing salmon means that our ecosystem is in trouble, and we are simply tired of playing Russian roulette with this very special treasure.

I think you noted in your statement that there are lots of factors that are driving all this fish killing. Our newspaper, the Oregonian, recently pointed out that some of those factors are dams, irrigation ditches, poor hatchery management, declining habitat, and overfishing in the river, but what I thought I might do for just a moment or two is focus on one of those issues which I think is a microcosm of our problem in the area of policy with respect to fisheries, and that issue is the matter of fish hatcheries.

Now, with respect to this issue, at the very best governmental fish hatchery policies are often poorly coordinated and simply contradictory. An example of one such policy is exemplified by the fact that some hatcheries produce coho which return to the river at the same time as the endangered Snake River fall chinook. Unknowningly, recreational and commercial fishermen catch the endangered fall chinook while they fish for the coho.

Another example would be that some hatcheries release steelhead trout in large numbers at a time when they go out to prey on the endangered chinook smolt. The third example of the question-

able management policy would be that some governmental fish agencies commonly use the brood stock raised at central regional locations to supplement natural populations located throughout the region.

These fish may not be genetically adapted to the drainages where they are released and consequently may have less chance of survival. Additionally, when breeding with local stocks, the newly introduced fish contribute genetic traits which may not be well suited to the area and can weaken the local stock.

Now, the question becomes in this area hatchery policy, which I would submit is a microcosm of the problem that we face in fishery policy generally, is how do we turn this situation around. There has been a special effort, the Integrated Hatchery Operations Team, known as IHOT, that is working to try to create a centralized agenda.

I think they are moving in the right direction. I think they deserve credit for their work, but because this has not been a priority issue, this program is now significantly behind in terms of its schedule. I want to see this program succeed. It is the key to better coordination of government hatchery programs in the Columbia River Basin. But if it is going to get on schedule, it is going to have to be a higher priority and it is going to have to be better funded.

That relates to my last point, Mr. Chairman, and that is the question of funding. It seems to me that with respect to funding we ought to focus on two areas: the first—and Congresswoman Furse and Congresswoman Unsoeld deserve considerable credit in this regard—is changing our priorities. The Northwest congressional delegation I think made a good start by redirecting \$30 million this year in the appropriations bill from the Forest Service road building account to watershed restoration activities in the forests of Washington, Oregon, and northern California. I think we have to build on that.

Clearly the road building account is just one example of an area of natural resources spending that has been a priority in the past, and it should not receive the same attention it has received in the future.

Finally, it seems to me, there is an overwhelming need for good, objective and scientific analysis with regard to salmon population levels. The last comprehensive inventory that was conducted in this area was in the late 1930's and early 1940's, and it seems amazing to think that half a century later we still are operating with such an outdated inventory.

I think you and Congresswoman Furse deserve great credit for your efforts to try to update this with the National Biological Survey, and as we look to how we allocate resources for the future and particularly implement those new priorities, I would hope that there would be significant support in the Congress for the work that you and Congresswoman Furse are doing on the biological survey.

Mr. Chairman, I am going to break my filibuster off right at this point. I know you have a tight schedule, and you have got a lot of friends here: Mr. Andrews from my own subcommittee, Mr. Manton who does great work on the Commerce Committee. I am

just glad all of you could take time from the recess to be in Portland.

[The statement of Mr. Wyden may be found at end of hearing.]

Chairman STUDDS. If there is any more praise you would like to scatter about, you certainly can have more time.

Mr. WYDEN. I tried to cover you all.

Chairman STUDDS. We thank you very, very much.

This committee, as you know, has reported out the National Biological Survey legislation requested by the Secretary of the Interior, and we hope it will become law shortly. I hope you stay with us as long as you can.

We are going to go to our first panel. I am going to ask all six members of that panel to come up at the same time.

While you are arranging yourselves as quickly as possible, I will describe the ground rules here. I might just observe that we have more Members of Congress here than we normally do in the other Washington. Maybe it is the weather.

Why is it that you people from Seattle and Portland are always so conscious about one another's weather? I don't understand. We are going to treat you as a single panel. We have six chairs. I hope you are all friends.

I don't know if the staff has described to you the brutality with which we proceed in these instances, but let me just say what we do, the lights you see in front of you, we are going to ask you to confine your oral presentation to no more than five minutes.

Your written presentations, many of which are substantially longer and very helpful, will appear in their entirety in the record. The future historians will have no idea of how much of them you did or did not read. It is not easy, I know, in a matter of this complexity in which feelings are so high to confine yourself to five minutes, but we have to do that.

When the yellow light goes on, it means you have one minute left, right here in front of you. When the red light goes on, it means you are done. We do apologize for that.

This is a device developed in the other Washington because of the necessity of accommodating many people who wish to talk. We will hear each of your testimony, then we will go to questions from members of the committee.

We will begin with Mr. John Lowe, Regional Forester for the Pacific Northwest Region of the U.S. Forest Service.

Mr. Lowe.

**STATEMENT OF JOHN LOWE, REGIONAL FORESTER, PACIFIC NORTHWEST REGION, U.S. FOREST SERVICE, ACCOMPANIED BY JAMES SEDELL, RESEARCH SCIENTIST, FOREST SCIENCE LABORATORY, CORVALLIS, OREGON, AND GORDON HAUGEN, COLUMBIA BASIN/PACFISH COORDINATOR**

Mr. LOWE. Mr. Chairman and members of the committee, thank you for the opportunity to offer our views on the conditions that have caused the decline of Pacific salmon stocks. I would also like to state that the Soil Conservation Service has asked me to note that they have submitted their testimony in writing to you.

I am accompanied today in the audience by Dr. James Sedell, Research Scientist from our Forest Service Laboratory in Corvallis, and Gordon Haugen, the Columbia Basin/Pacific Fish Coordinator who works as a special assistant to all the regional foresters in Regions 1, 4, 5, 6, and 10.

One-half of the remaining freshwater salmonid spawning and rearing habitat in the lower 48 States and about one-quarter of such habitat in Alaska is on the National Forest System's five western regions that cover California, Oregon, Washington, Idaho, and Alaska. I am going to specifically take my five minutes to address the questions that were given to us.

One was by what authority is each agency held accountable for Pacific salmon recovery and how are activities of your agency affecting the recovery of salmon? The Forest Service under the authority of the National Forest Management Act and the Endangered Species Act is responsible for the management of anadromous fish habitat on 34 national forests in five western regions.

The challenge for the Forest Service is to manage these habitats with an ecosystem perspective for all uses, both commodity and noncommodity, while ensuring the protection of the basic soil and water vegetative resources that are critical for the sound stewardship of fish habitat and other resources.

Historically, land use activities on both public and private lands throughout the range of the Pacific salmon have affected watershed conditions and associated anadromous fish habitat. Scientific understanding has changed through the years, thereby pointing out the need for continuing evaluation of our programs.

We are committed to continuing improvement of our management consistent with new information and the best science. The Forest Service has specifically taken several actions which when fully implemented will help lead to the recovery of the Pacific salmon.

The Columbia River Basin anadromous fish habitat management policy and implementation guide was signed in January of 1991 by the three regional foresters in regions 1, 4, and 6. This policy clearly articulates the Forest Service's intent to proactively manage anadromous fish habitat in the Columbia River Basin.

The Forest Service, in cooperation with the Bureau of Land Management, is developing a Pacific salmon and steelhead habitat management strategy, and the PACFISH strategy is a comprehensive ecosystem approach to management of watersheds in the Pacific anadromous fish habitats. PACFISH is being developed by technical specialists and line managers from BLM, the National Forest System and research scientists from our Forest Service Research Organization. This program complements the fisheries portion of the president's plan for managing the Federal lands in the Northwest in the region of the spotted owl in Oregon, Washington, and northern California.

The second question is how is your agency coordinating restoration efforts with other agencies? Is there an overall strategy of restoration? Is your agency working with other agencies and tribes to implement coast-wide restoration efforts?

The Forest Service has been a full partner with other Federal and State agencies and tribal governments responsible for the man-

agement of anadromous fish resources throughout the range of the Pacific salmon. We have worked with and have received funding through the Northwest Power Planning Council for habitat enhancement programs on national forests throughout the Columbia Basin.

We were an active participant in 1990-1991 Salmon Summit Conference sponsored by Senator Hatfield. Outside the Columbia River Basin, there are numerous other cooperative restoration efforts in which the Forest Service is an active participant.

In the State of Washington we are working with the U.S. Fish and Wildlife Service, State and tribal agencies, conservation organizations, and industry groups to restore watershed conditions in the Puget Sound area.

In northern California, we are working closely with the Fish and Wildlife Service, the California Department of Fish and Game, tribes and private groups and restoration efforts within the Klamath River drainage.

The third question is what obstacles stand in the way of successful coast-wide strategy?

Habitat management on a coast-wide basis will be difficult in view of the mixed ownership patterns in coastal river basins: State, private, and Federal. The major challenge will be the management of private lands within the basins and the restoration of estuaries that have been affected by basin land use activities in managing for fish while meeting the other needs of the affected communities and sectors.

What elements are necessarily part of a coast-wide strategy?

An overall watershed management plan which is implementable and which embraces all ownerships and sources of fish mortality. It is essential that freshwater habitats and estuaries are to be managed and restored to a level of productivity to meet anadromous fish production goals.

What progress, if any, has been made toward restoration?

The Forest Service in the development of the anadromous fish policy and implementation of the salmon summit measures and participating cooperative efforts, all of which I have discussed earlier.

For those species under ESA, please describe the agency's implementation of section 7.

The Forest Service has developed in consultation with the BLM and National Marine Fisheries a procedure for conducting consultations of these stocks and land administered in the Snake River Basin. We are optimistic that the president's plan will contribute significantly toward improved habitat conditions and recovery of stocks at risk.

However, an ecosystem management cannot be successful without the participation of all Federal and non-Federal landowners, tribes and agencies in those affected watersheds.

That concludes my five minutes. I will be glad to answer any questions.

[The statement of Mr. Lowe may be found at end of hearing.]

Chairman STUDDS. Thank you, sir. It does focus the mind, doesn't it? Sorry about that.



Next we will hear from Mr. Rollie Schmitten of the National Marine Fisheries Service. Nice to see you.

**STATEMENT OF ROLLIE SCHMITTEN, DIRECTOR, NORTHWEST REGION, NATIONAL MARINE FISHERIES SERVICE**

Mr. SCHMITTEN. Mr. Chairman, members of the committee, it is indeed a pleasure to welcome you back to the Northwest. Those of you from the Northwest, we welcome you home.

I am Rollie Schmitten. I am the Northwest Regional Director for the National Marine Fisheries Service, and as this committee well knows, we are a part of NOAA, and our parent organization is the Department of Commerce. It is a pleasure today to focus on something that has been extremely important to all Westerners and, in fact, I think to all peoples of this Nation, that is our Pacific salmon.

The Service's most visible role in the recovery of Pacific salmon populations is through its delegated authority from the Secretary of Commerce to administer the Endangered Species Act for both marine and certain anadromous resources and their habitat.

However, the Service also has Federal authority and responsibility for marine and estuarine and anadromous resources under a variety of laws that can affect the recovery of salmon. There are many laws that guide our actions, but even with those authorities, let me state that salmon restoration will only come from collaboration and cooperation.

Additionally, the Service actively participates as a member of regional task forces, the Pacific Council and other salmon oriented groups, including the Klamath Fishery Management Council, and reviews activities associated with Federal land and hydropower operations that have the potential to affect anadromous fish or their habitat.

Also the Service is directly involved in managing ocean and in-river fisheries and the Columbia River Basin hatchery production, which affects both treaty and non-treaty fisheries.

In this context, the Service encourages the protection and enhancement of all anadromous habitat. We strive to restore and improve the productive capacity of all fish habitat, not just that habitat that is for a listed species under the ESA. We accomplish this task in cooperation with other Federal, State and tribal management bodies.

Under the Endangered Species Act, the Service has three major roles for the protection and recovery of Pacific salmon. First is deciding whether a species or distinct population of a species should be listed as threatened or endangered and, if so, promptly designating critical habitat.

The second is conducting the section 7 consultations and evaluating applications in issuing section 10 permits to the States; and the third and final is the development and implementation of recovery plans.

Let me just digress from my text and discuss the key lessons that we have learned in the listing of the Northwest salmon. First, our focus has shifted from a hatchery to a wild stock similar to what

Congressman Wyden has brought to your attention and from stocks of plenty to small distinct wild populations.

Next, that the problems of wild stocks, once you are outside the Columbia Basin and the effect of hydropower, for all intents and purposes is habitat. That for the Columbia system there is no single magical solution. It must be a holistic approach, including the four "H's" that the Chairman has already mentioned.

Finally, that the recovery requires a team effort. It must include Federal agencies, State agencies, tribal governments as well as the conservation and fish organizations.

Mr. Chairman, back in November of 1991 the Service listed the Snake River sockeye salmon as endangered. In April 1992 we listed the Snake River spring/summer chinook salmon, and the Snake River fall chinook salmon as threatened. Before us today we have several petitions to review: the Umpqua River sea-run cutthroat trout, the mid-Columbia summer chinook salmon, and five populations of Pacific coast coho salmon in Oregon.

We are also conducting a status review for all coastal steelhead stocks in California, Oregon, and Washington. Mr. Chairman, we also are currently involved in numerous section 7 consultations, through which Federal agencies assure that Federal actions are not likely to jeopardize the continued existence of listed species; but I caution because so many people confuse section 7 with recovery. Section 7 is not a substitute for a recovery plan.

Mr. Chairman, as of July 28th we have completed 132 consultations; we have issued several preliminary jeopardy statements. But I am pleased to report to this committee that we have worked out a compromise in deference to the fish on all 132 consultations, and we have issued non-jeopardy statements because of the Federal cooperation that we have had.

Mr. Chairman, in closing, a couple notes. One, that the coast-wide wild fish initiative is very similar to the President's plan in that it focuses on an ecosystem approach, something that Congresswoman Unsoeld brought to our attention two years ago which simply states that a single species approach, where you have multiple listed species in the drainage, simply will not work. We must focus on all the species' needs.

I would offer these comments on the president's forest management plan. I have been a fisheries manager for nearly 15 years, a decade-and-a-half, and it is my experience during that time that there has never been full consideration of fish needs in land use decisionmaking.

Chairman STUDDS. I hate to do this to you, but could you wrap it up?

Mr. SCHMITTEN. Yes, sir. I view the President's plan as a measure of equity for fish and wildlife. It recognizes that fish must be protected outside the stream beds and into the riparian zones. It will involve all land use decisions that affect fish, and I certainly appreciate the opportunity to appear before your committee.

Thank you very much, Mr. Chairman.

[The statement of Mr. Schmittten may be found at end of hearing.]

Chairman STUDDS. We generally give extra time to anybody wishing to praise either this committee or the President, but we are a little pressed. Thank you.

Mr. Marvin Plenert, Regional Director of the Fish and Wildlife Service.

Mr. Plenert.

**STATEMENT OF MARVIN PLENERT, REGIONAL DIRECTOR, U.S.  
FISH AND WILDLIFE SERVICE, REGION 1**

Mr. PLENERT. Good morning, Congressman Studds and members of the committee. It is a pleasure to welcome you to Portland where so many of the Nation's environmental concerns intersect.

It is entirely fitting that this field hearing concerning the decline of Pacific salmon stocks occur here, and it is appropriate that the Fish and Wildlife Service be represented before you. We have a long history of stewardship of salmon and steelhead trout in this region, dating back to 1872.

That was when we began field investigations of the McCloud River in California and attempted to increase the number of salmon in the northern California waters with the construction of our McCloud River hatchery. That hatchery some years later was inundated by the Shasta Dam.

This example serves as a microcosm for much of what happened to the fish stocks in the Pacific region and of the unfortunate decline that brings us to this field hearing today. My remarks this morning will be brief and supplemented by my written testimony.

The one element to the fishery resource question that stands out today, startling and undeniable, of this accelerated rate of decline of the Pacific salmonid stocks, the incremental small population declines have suddenly and dramatically reached the point that several salmon and steelhead populations are at risk of extinction. Three salmon stocks in the Columbia River Basin and one in the Sacramento river have already been listed; 214 others have been identified at risk by the American Fisheries Society.

We are witnessing a decline that our fishery scientists have warned for years due to the practices they have described for decades—habitat loss, over-harvest, incompatible hydropower operations, water diversions, antiquated hatchery practices. A little overfishing here, a clear cut there, a modest water withdrawal over there all have undermined the system like a colony of termites undermines the foundation of our house.

Three things we must do to reverse this decline of Pacific salmonids. We must capitalize on the renewed interest and concern stimulated by President Clinton's forest conference to the restoration of Northwest watersheds. Largely through the efforts of fishery management agencies was the fishery issue injected into the debate, and what started out as a timber summit took a broader and, in our view, more comprehensive perspective. It is our view that fishery restoration will also create jobs in an economically depressed region.

Members of this committee, we have all heard statements pitting environment versus jobs. We believe it is possible to have both.

The fisheries issue presents such an opportunity. We must be relentless in guarding remaining salmon habitat, and that includes the important transportation corridors as an essential component of any effort to avert further population declines to restore populations and to accelerate the process of restoring damaged and unproductive habitat. The cooperative ecosystem-based approach to fishery restoration in Washington State's Chehalis River Basin, encouraged and promoted by a member of your committee, Congresswoman Unsoeld, provides an example of the comprehensive way in which we should be looking at fisheries issues over the long-term.

However, providing the best habitat possible will not guarantee recovery of fish populations unless non-habitat factors are also addressed. As we pursue ecosystem-based approaches to fishery restoration, we need to recognize that many tribes have fishing rights to Pacific salmon and also have lands that contain important watersheds and miles of productive salmon streams.

We need to recognize the importance of Native American culture, management capabilities, fish and wildlife resources, and their considerable land-based and all watershed restoration activities. We must abandon the piecemeal approach to fishery restoration on the West Coast and take a more holistic approach that talks about watersheds and ecosystems, not just rivers and populations.

Once again, I believe the Forest Conference stimulated thinking along these lines, and I pledge to you that the Fish and Wildlife Service believes that this is the right direction to proceed. Fish restoration on the West Coast should encompass an entire region.

The continued commitment of leadership of the Department of Interior should prove an effective driving force in expanding existing and foregoing partnerships. The Fish and Wildlife Service has organized and promoted numerous meetings and myriads of government and private organizations in creating a watershed-based protection and resource strategies.

We are also working with the States and tribes and other Federal agencies in developing a comprehensive detailed data base that will allow us to monitor and evaluate the status of individual stocks.

Lastly, the warnings of scientists were heard when the Congress passed what some day may come to be considered one of the most significant changes in public water policy, and I am referring of course to the Central Valley Improvement Act. I won't go into that in detail, but the Fish and Wildlife Service is working with the Bureau of Reclamation and the State of California and other entities down there to work with changes in water policy in that State.

Members of the committee, I hope our question period can probe these issues in greater detail. Until that point, I will close by addressing my appreciation for your presence in Portland this week and for your interest in addressing these issues that the Fish and Wildlife Service and others have long felt been needed for a more comprehensive solution.

Thank you very much.

[The statement of Mr. Plenert may be found at end of hearing.]

Chairman STUDDS. Thank you very much, sir. No wonder the salmon is in trouble. We have been here less than an hour and we

have already heard from three Federal agencies. The reason there aren't more is because there is no room.

Mr. Bob Turner, Director of the State of Washington's Department of Fisheries.

Mr. Turner.

# STATEMENT OF BOB TURNER, DIRECTOR, WASHINGTON DEPARTMENT OF FISHERIES

Mr. TURNER. Thank you, Mr. Chairman.

I, too, appreciate the opportunity to speak to the committee and the committee's appreciation for the salmon resource in the Northwest and our need to maintain and recover the populations in this region. They are, as Congressman Wyden pointed out in his comments, a cornerstone of the economic and the cultural and the recreational fabric in the Northwest.

I think a poll taken about a year-and-a-half or two years ago showed that some 90 percent of the people in Washington have some strong attachment to the salmon resource in one way or another. They are a canary in the coal mine, and they indicate to us what is happening in our overall watersheds.

Wild fish resources in particular and the habitats that they depend upon must be protected and restored if we are to maintain viable and healthy fisheries as well as all the other cultural values we attach to them. The wild fish also provide us the breadth of the genetic diversity in our stocks so that our grandchildren are going to enjoy the same benefits that we can.

I agree with Rollie Schmitten that to protect and restore these stocks we must all work together. There are more, far more than only three Federal agencies involved in that effort. Fisheries managers together, like all other governmental agencies, have implemented dynamic public policy as it has grown and matured through all of the years and the decades, and fish management policy has shifted dramatically as has other major public policy.

We have been trying to adapt to the development of hydroelectric facilities, to substantial timber harvest from river basins and riparian areas, and to increased awareness of the limits we must place on harvest capacity to protect the resource. Now, today we are growing in our awareness and our ability to adapt to the Endangered Species Act. Through all these changes in public policy, many fish stocks in the region remain relatively healthy.

Naturally reproducing populations still account for over half of the total salmon production originating from Washington's watersheds. Nevertheless, most stocks experience periodic problems, and many of the wild stocks are severely depressed. They demand our attention. We have a joint challenge of accommodating growth and development in a manner that protects our resources while increasing our concern about wild populations and their genetic diversity.

Fishers themselves have a double sacrifice: one of constrained fisheries to meet these challenges; the other budget constraints that actually lead to closing the hatcheries that provide abundance upon which fishers depend. As we have already indicated, fish survival is affected by a wide variety of factors.

Certainly harvest rates on some wild stocks may be incompatible with healthy levels of sustainable production. Hatchery programs, as has been pointed out, have generated much public debate, ranging from the view that fish culture represents the future of the salmon in the region to beliefs that hatcheries are the primary reason why wild stocks have become depleted.

Our views are somewhere in the middle, which is a safe place to be, but two things about that are very clear. First, harvest management and hatchery production are technical fields that fish managers know quite a bit about. If you tell them what to do, they will do it. If we establish a clear public policy, it will be followed.

Secondly, it is clear that improved and better coordinated management of habitat protection, harvest management and hatchery production together will be the key to designing comprehensive strategies to maintain and restore wild stocks in the region's important economies and public values that they support.

This challenging landscape for managers represents an impetus for the Department of Fisheries, together with the Indian tribes in Washington and the Department of Wildlife to jointly develop and implement the wild stock restoration initiative in Washington for our State salmon and steelhead resources.

The initiative has two major components. First, the hands-on recovery of the depressed populations and, second, the development of a comprehensive salmon management policy with which all future actions must be consistent. The first phase of the restoration initiative is a straight-up inventory of our salmon and steelhead populations. It is called the salmon-steelhead stock inventory.

You have a copy of the summary attached to my testimony. This is the summary report, and I have brought a copy of the technical appendix for the Columbia River, just to give you a sense of the depth of that information. It signifies the concurrence of more than 100 biologists that worked for both State and tribal management agencies.

I am well familiar with all the lawyer jokes and all the economist jokes, but if you can get 100 biologists to agree to the status of stocks, it is a significant achievement. We are moving forward with that initiative and we stand ready to work with all of the other management entities in the State to push it forward, and clearly working with the Federal agencies on that effort is a critical, critical step.

To be brief, I urge this committee to support an ecosystem response to all of these issues, particularly in the context of the follow-up to the Forest Conference, and particularly components of an ecosystem approach that would allow an optional participation by State and private landowners in an ecosystem management because the watersheds that affect these fish resources are not just on Federal lands, and if we are going to provide a total ecosystem approach for a broad range of species to include fish, we must have an ability to have private and State landowners enter into that management process.

My time is concluded, but I would like to emphasize that the State and the tribes in Washington are moving forward and look forward to an opportunity to coordinate these efforts in recovery with those of the Federal agencies.

[The statement of Mr. Turner may be found at end of hearing.]  
 Chairman STUDDS. Thank you very much, sir.  
 Next Mr. Ted Hallock of the Northwest Power Planning Council.  
 Mr. Hallock.

# STATEMENT OF TED HALLOCK, COUNCIL MEMBER, NORTHWEST POWER PLANNING COUNCIL

Mr. HALLOCK. Mr. Chairman, the Power Council is an agency of the four Northwest States, Oregon, Washington, Idaho and Montana. Created in 1980 under the Pacific Northwest Electric Power Planning and Conservation Act, it comprises two members from each of the States named by the governors. We have been charged by you with planning for low cost, reliable electric energy and with protecting, mitigating, and enhancing fish and wildlife at the Columbia River Basin.

By law, we focus on the Columbia River Basin and under the Act we have created a basin-wide recovery program designed to improve salmon survival at every stage of its life cycle. In our opinion, a successful salmon recovery program had to be developed in public; all interested parties must be allowed to participate.

In developing ours, we met with representatives of local, State, and Federal Governments, fish and wildlife agencies, barge lines, irrigators, ranchers, Indian tribes, environmental groups and many, many others. A single agency or governing body should coordinate this work and write the program, in our opinion.

We have written the program. We could coordinate it if our Act was broadened. It must be a comprehensive program that addresses impacts at every stage of the life cycle. Ours is.

It must be based on the best available science but also recognize the limitations of science. Research continues. Science will change, and the program must be flexible enough to change as needed. That is why a successful program must also include a rigorous program of monitoring and evaluation. Ours does.

Finally, a successful program must be fully implemented, and the agency or organization coordinating the program should have the authority to see that it is fully implemented. The last part of that sentence is a question mark, and as far as the degree of implementation, that is a matter among many other matters for the committee to look at today and in the months to come.

We developed our plan in what we call phases one, two, and three between 1991 and 1993. Currently we are working on a phase four, resident fish strategy, which should be completed in November.

Thank you.

[The statement of Mr. Hallock may be found at end of hearing.]  
 Chairman STUDDS. Thank you, sir. All-time record. Appreciate that.

Finally, Mr. Ted Strong of the Columbia River Inter-tribal Fish Commission.

Mr. Strong, nice to see you again, sir.

## STATEMENT OF TED STRONG, EXECUTIVE DIRECTOR, COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

Mr. STRONG. Mr. Chairman, and members of the committee, good morning. It is a pleasure to be here in behalf of our four tribes: the Yakima in the State of Washington, the Nez Perce in the State of Idaho, the Warm Springs and the Umatilla in the State of Oregon. Long before there were tribes and before there were States, there was nature; and in this natural setting everything flourished without words of a human being. Later came laws from mankind that tended or pretended to govern how life should be upon this earth.

That was the beginning of the destruction of what we know and what we call the pristine beauty in the Northwest, and today it is incumbent upon each of you to try and measure and calculate the best possible restoration and recovery plans for many of these species that have become endangered, some which have become extinct. It is not with any kind of exaggeration that Indian people say we were close to being upon that list.

When the salmon were being destroyed by the development in the Northwest and when the non-Indian peoples began to explode in population numbers, the salmon began to decline. Along with that decline, the population of Indian peoples declined. By your own records, it states very clearly that at the turn of the century there were approximately 60,000 of our tribal members.

With the disappearance of the salmon and with the destruction of the natural beauty, our numbers have dwindled down to approximately 17,000 today. Conversely, you look at what the non-Indian population is, you look at the industry that has been built upon what people take great pride in or suggest that there is pride in looking upon the Columbia and its tributaries.

When Lewis and Clark arrived, it is measured that Indian people were taking approximately 2.5 million salmon from the rivers. In consideration of your questions, which we appreciate because it demonstrates your understanding of the issue about the recovery and restoration efforts, when the Salmon Summit began, our harvest had dropped down to approximately 104,000 in the lone commercial fishery we have left.

Since then, in 1991 our commercial harvest dropped down to 48,000, in 1992 it dropped down to 28,000. In this current year that we are living in, it will drop down to 25,000 for those 17,000 tribal members, and when we look at the multi-billion dollar industries who, looking at their bottom line, there are very few of those big industries that have suffered in the kinds of losses, human life being the greatest, that Indian people have. We have suffered property losses, the dams have destroyed our fishing sites, perhaps forever.

Along with that, the displacement of human life to other kinds of vocations without economic transition assistance from the Federal Government, without any apologies that we hear that are being offered to the other countries and other cultures that the United States helped to destroy. We made do on our own, and today when we are asked about the recovery program, we don't take great delight in hearing of the many processes that have been put in place.



The political rhetoric, the political processes may sound good. To many people they are palatable, but nothing is palatable to Indian people except the freshness of that salmon that we once enjoyed.

It was not from someone's plan that the salmon came; it was from the creator. That is where we differ considerably in how we view this recovery effort. Recovery should not mean just maintaining a 60 percent viability of a recovery.

It should mean restoring the accountability processes. The oversight responsibility of this committee and others in the Federal Government should have that will.

Out here we have "won't": we won't give water that is needed for the salmon; we won't give the habitat that is necessary. These things that are important to us are what we hope that the committee will consider.

We know your challenges are many, but we hope and pray you have the strength to see through what the commitment is. The commitment is to the pursuit of happiness and the right to life and liberty; but it is also to discipline, it is also to those things that were here long before there were ever human beings on this earth, and we hope that as we share this cultural bit of philosophy that it could take root.

I know that each of you who have constituencies and families understand what that means, and we do thank you in behalf of these four tribes that are the owners of our commission, we thank you for the opportunity to present testimony.

[The statement of Mr. Strong may be found at end of hearing.]

Chairman STUDDS. Thank you, sir, and thank you for once again putting things in perspective for us. I appreciate that.

I really only have one question, and I don't think anybody has the answer or they probably would have had it in their testimony. It seems to be very clear that in the broadest sense we know what to do, and everyone is now beginning to speak the same language, the President, the Secretary of the Interior, the witnesses here.

We need to think on a far larger, broader scale. There are words of the day, ecosystem management, on a whole watershed basis in the case of the salmon species. Granted, we know now that is what we must do. The question is how in God's name, given the complexity of government at all levels, do we do it.

I can still hear Secretary Babbitt's astonishment at finding that not only was his department at war with other departments of the Federal Government, but agencies within his department were at war with one another. It is no wonder that the average citizen, never mind the average salmon, can't figure out what is going on. It seems to me very clear that we need someone in charge of an ecosystem or a watershed.

I hate the cliché, but we need some kind of a "czar". We have king salmon, maybe we need a salmon king, I don't know, we need somebody responsible for this.

I hesitate to ask a panel composed of, among other things, three Federal agencies who should be responsible, but has anybody got any ideas? Please don't feel compelled if you don't have any to respond because I don't know the answer, but what should we do?

Do we need to give the President of the United States or his cabinet statutory authority they currently do not have to name a

person who will be responsible in the kind of broadest sense that we have to act or will we be self defeating no matter what we do?

Mr. HALLOCK. Mr. Chairman, the Power Council could fill that void totally but for one small drawback, constitutionality. In creating us, you have created a unique, near-regional government. However, we pride ourselves on, as I said, being comprised of gubernatorial appointees, and to give gubernatorial appointees from four States direct line authority over Federal agencies, I understand would transcend certain provisions of the Constitution.

We still can serve an important role, but in direct response to the Chair's question, I guess within the Federal bureaucracy you will probably, to meet the constitutional fiats, have to have that czar of congressional making within the Government.

As far as the warring between the agencies, to me it is totally indefensible and Congress shouldn't tolerate it.

Chairman STUDDS. I appreciate that. This is not a request for volunteers agency by agency. I think if no one is leaping to answer the question, it speaks volumes about where we have gone in understanding and sort of stopped.

Mr. TURNER. I wouldn't call this a leap, but maybe a hop.

I do think there is recognition that coordination of all of the entities that are involved in salmon management is an important thing, and our recognition now of habitat issues being key to success has broadened that range of governmental agencies far wider than it might have been suggested five, eight, ten years ago, particularly I think on the Federal side where you now have Federal land managers and regulators all dispersed among a variety of agencies, including some that don't immediately come to mind like the State Department that are major players in the arena; and I think that as a practical matter trying to change jurisdictions and authorities of a bunch of different agencies is a difficult task.

You have the authority to do that at the Federal level. If we start to enter into doing that at the State and tribal level, I think it would become very cumbersome. However, this multitude of jurisdictions is only a problem because it doesn't reach a decision, and if we can coordinate those actions so that a decision can be made and progress moves forward, I think that that is success, and frankly, I think that we at the State level have, since the Salmon Summit, pointed out our own deficiencies, have worked our tails off to coordinate among State agencies to deliver a clear message about where the States lie on particular issues, and I credit the tribes with the same thing.

And I think that the President's approach to the Forest Conference has shown how leadership in bringing together the Federal agencies on a particular issue also can lead to success. I don't think that same kind of focus toward policies has occurred at the Federal level with the salmon.

Chairman STUDDS. Let me just observe, I will let you answer that the lights apply to us as well.

Mr. Schmitten.

Mr. SCHMITTEN. Thank you very much, Mr. Chairman. I think the significance of the salmon recovery issue far out-shadows that of the spotted owl, and I think because of the significance that we should welcome the administration's focus on this issue. I appreci-

ate what is coming out of the Timber Summit, the ecosystem approach, the strong mandate from the administration for the Federal agencies to be working together. There is no turf.

The issue is too big for any one agency to simply declare turf and declare that we won't work together. Fish and Wildlife and the Service have split up even the restoration and the consultation process because we need each other, and we must do that, and we need the tribes and the States, and the one drawback thus far has been that the consultation process has excluded, because it is a Federal process, outside participation, and we intend to address that and are working on that right now, while we await a recovery plan. I think it, too, will address who should have leadership. We simply need a tie-breaker, someone to listen to all and say now let's make a decision and move forward.

Thank you.

Chairman STUDDS. In fairness, Mr. Plenert, briefly go ahead.

Mr. PLENERT. I will also be very brief, Mr. Chairman. I don't believe we need to create a new agency or a salmon czar for this difficult issue or to accomplish what we need to do. I think Rollie touched on it very succinctly that agencies need to work together.

We all know kind of what our mandates are, and we need to work together with everybody to turn this thing around. It is not a salmon issue, it is not an owl issue. We are looking at an ecosystem, an environment issue. There is no question about that.

Every one of the people represented here, the Forest Service, and the Bureau of Land Management that manage rather large holdings know that, and I personally see that as a result of the Forest Conference, a complete turnaround in working together with other agencies. In fact, it is mandated to all of us, and I was even told if any of us choose not to do that, we may want to find employment elsewhere. It is kind of like that, but I see that this thing is workable.

The Fish and Wildlife Service has stepped forward with regard to restoration. There are bits and pieces of restoration going on all along the coast. We need to pull it together, put together a data base, and so that we all are pulling in the same direction, and that is possible with the support of this committee, it is possible, and I think we can get there.

Thank you.

Chairman STUDDS. I appreciate that. It is nice to hear the reflection of the orders of the new Secretary, a very real change.

The gentleman from New York.

Mr. MANTON. I thank the Chairman.

I was just doodling a bit during the respective presentations, and throughout all the testimony the words "ecosystem approach" versus "single species approach", watersheds, regional approach, kept coming up. Everybody seems to be on the same wavelength. I think that is important.

The Chairman has already raised the issue so I won't beg the question about whether we need someone or some agency or some czar or salmon king, whatever we want to call that person, to coordinate our salmon restoration efforts. But, aside from that global approach, which I think we are pointed toward, whether that requires legislation or executive order or a combination, something

will have to be done to streamline our decision making process for the management of salmon populations. When we visited with the tribal council yesterday—I forgot who it was—someone said that even if you stopped all of the harvest totally, the problem would continue, so we know that addressing only one of the “H’s” of the four “H’s” we have talked about would not solve our problems.

However, if we were to choose or pick and choose between the four “H’s”, which one would give us the most immediate short-term relief, if any?

I will put that to anybody on the panel.

Mr. Schmitt?

Mr. SCHMITTEN. Mr. Manton, without a doubt I think the community at large has all reached an agreement that in the neighborhood of 80 to 90 percent of juvenile salmonids are affected, killed by a hydropower system, so that is where the largest effect occurs. Also it is the most difficult to get at because any change that would occur would require a retrofitting of the dams, you are talking several years of doing that.

In some cases we lack the science really to give us direction, to say it is right to do that, so the common denominator becomes water, and this year for the first time we went after water both for summer and spring periods; and in the short-term I think that our only answer is going to be water. Certainly hydropower has the most prominent effect on fish.

Mr. MANTON. Anybody else want to comment on that?

Mr. Turner?

Mr. TURNER. My comment is that, frankly, I think while we need to make short-term gains, we are looking toward a long-term solution, and I would hate to mask the problem with short-term gains. Frankly, I think we need to caution all of ourselves not to focus solely on the Columbia River or listed species, but this problem pervades watersheds up and down the coast. Many of these stocks have been petitioned.

Most of them have not been petitioned, but they are depressed and they need to be recovered, and they command our attention in order to prevent the kinds of crises that we see now in the Columbia River or the Sacramento.

Mr. MANTON. Is the biggest culprit the Federal ownership of land or private ownership?

Mr. PLENERT. I don't think you can separate the two. You can't point to any particular culprit.

I think you have to look at the landscape as it is being used. The fish don't have any idea when they enter a private or a State or tribal land or federally-owned or anything like that, so it is a combination of looking at the entire system that has to take place, and I think Mr. Turner here mentioned it very well. It is not just the Columbia system. There is other tributaries that don't have any dams on them and they still don't have any runs. So you have to look at the holistic approach up and down the coast, the entire system.

Mr. MANTON. The courts have recently been awarding damages, if you will, where the ownership of land or the use of land is curtailed, a so-called taking, oftentimes for good reason, environmental and other public interest reasons. Do we foresee that if we are,

particularly with private lands, to tell the owners that they can no longer use their property in the way they have been or have intended to in the future, that we will have to provide compensation for that curtailment of use?

Mr. TURNER. My brief answer is no, but in my opinion, in recovering these salmon stocks, we are not necessarily, in reference to your first question, looking for culprits.

What I think the State of Washington is looking for are the kinds of incentives that are going to make landowners, whether they be Federal, State or private, and we have substantial State forest land holdings in Washington, have incentives to manage those lands in a way that is consistent with the restoration of habitat and the protection of habitat. Those kinds of incentives should not require the kinds of compensation that is suggested by your second question, in my opinion.

Mr. PLENERT. I think when you look at the entire system, you know, if you look at restoration in itself, I think you have to look at the area in a joint venture, in a cooperative basis and put together kind of an umbrella plan that addresses restoration across all three States and then step it down by State, by providence and drainage, and then try to form partnership and give incentives and work toward incentives toward restoring streams and restoring rivers and the landscapes and that sort of thing and do it on a joint venture partnership, challenge grant basis.

It is not the cost of the Federal Government entirely or State government. I think we all need to invest in this and there is a lot of private corporations and a lot of folks that would step forward and match Federal dollars or State dollars in this effort. So I think it is a broad approach that we are looking at.

Mr. MANTON. Thank you, Mr. Chairman, my time has expired.

Chairman STUDDS. In the risk of breaching seniority here, I am going to turn to our host, the gentlewoman from Oregon, Ms. Furse.

Ms. FURSE. Mr. Chairman, I would like to address the same question to Mr. Turner, to Mr. Hallock, and to Mr. Strong. I would like to ask you, in your opinions, how would you change the current response of the Federal Government to salmon recovery. Given that I only have five minutes, I am going to ask you three if you could respond to that question.

Mr. TURNER. Well, I think there are probably a variety of ways. I can think of two.

One of them we have already alluded to, which is to provide some mechanism to facilitate and coordinate Federal actions toward consistent policies and priorities, so we have somebody we can call on who will answer the phone and give us a response.

Secondly, I know this committee has concerns about the Pacific Salmon Commission and the way it operates. I am one of the three voting members of the Pacific Salmon Commission.

I can tell you that among the commissioners and the commission as a whole there is a lot of frustration about the lack of a forcing mechanism by which a decision must be made by some time. We require consensus to move forward.

I was commenting to Congresswoman Unsoeld earlier, I don't mind the consensus so much as the lack of a wall that we are going

to hit if we don't achieve the consensus, and as a result of that failure of a forcing mechanism there is the ability to trip along on the status quo. I think we and the tribal voting member have had a lot of success in formulating our approach; and in proposals for presentation to Canada, we cannot get the concurrence of the remainder of the commission to put those across, and as a consequence we have been frustrated in moving forward on particularly chinook and coho management.

Ms. FURSE. Thank you.

Mr. STRONG. In response to the question, Congresswoman Furse, the Federal Government, first of all, has a responsibility to develop a shared vision. I believe that having so many processes out here in the Northwest has really fractionated everyone's efforts.

Our resources are being expended, particularly time and people, by participating in at least ten different processes designed for salmon restoration. We also find that some of the lead agencies, such as the National Marine Fisheries Service, can as they go along more or less promulgate their own rules and regulations for implementing the Endangered Species Act.

It may be hindsight, but perhaps the Congress should have developed the implementing rules and regulations as they developed the laws. It created a considerable amount of conflict and confusion as many of the Federal agencies began competing for the purpose of developing the best restoration plans.

The idea of merging perhaps the National Marine Fisheries Service fishing programs with the U.S. Fish and Wildlife Service might serve a useful purpose in helping develop that shared vision.

With regard specifically to the tribes, it isn't just a tribal racial issue when we talk about treaty rights, it was to ensure the perpetuation of natural species. The Federal Government has to take a very clear position with regard to artificial propagation. The treaties and the ultimate building of the dams created a mitigation program.

Hatcheries were a big part of that mitigation program and led to the tribes agreeing to a large part of the hydro development. Absent any artificial propagation, we see the United States promise for artificial propagation as a means of mitigation being empty, and it results in Article 5 of the Constitution, property damages to the tribes, which we have estimated to date at about \$8 billion, and that is something we don't want to go back into, so I believe the idea of shared vision.

And very briefly with regard to the salmon czar, I think Senator Hatfield came here earlier and said everyone must take accountability for their actions lest the guillotine come down upon your head. I think that is really where we should be focusing.

Ms. FURSE. Thank you.

Mr. HALLOCK. I believe, Mr. Chairman, we need a statement of the imperative character of restoration from the President to agencies, and then we wouldn't have the Bonneville Power Administration under-funding the Council's budget, as we speak, \$15 million. The Corps of Engineers has declared a six-month delay in the John Day drawdown.

The Forest Service is behind grazing management improvements, identifying revisions to the management plans, and on and on and

on. We have resistance generally throughout the agency community, and I think something should be done by executive direction that isn't currently being done to tell them this is an imperative of the current administration.

Ms. FURSE. Thank you.

Thank you, Mr. Chairman.

Chairman STUDDS. The gentlewoman from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

Ted, when you said in your testimony that the Act needed to be broadened for you to be able to be successful, were you referring to the constitutional difficulties or something else?

Mr. HALLOCK. Well, Congresswoman Unsoeld, I am in this context speaking for myself. I always say that so that I don't get killed when I go back by the other seven.

In the past people have brought up the fact that if we were to issue fiats to the Forest Service or BLM or the Bureau of Reclamation or so forth we are issuing fiats to representatives of the executive arm of the United States Government which is unconstitutional.

We are a State-driven regional entity. We haven't attempted to issue such fiats.

So unless you change the character of our being, which you could do by modifying our statute, in response to the Chair, I was simply saying that probably this intra-Federal bureaucracy czar is the logical way to go. I believe our powers, however, before I leave that answer, should be broadened.

For example, speaking for myself I believe we should have authority over certain portions at the Bonneville Power Administration budget-making apparatus, those dealing with fish and wildlife restoration mitigation. I am totally dissatisfied with the short shrift that our entire program is getting from that agency. That is indefensible.

Mrs. UNSOELD. Thank you.

Let me try to jump to another. A number of the species besides salmon are in some stage of the listing process under the Endangered Species Act, Kootenay sturgeon, bull trout, Snake River snails.

So what steps are NMFS and U.S. Fish and Wildlife Service taking to ensure the coordination of recovery strategies and optimize the benefits of recovery measures for decline in species in Northwest river systems?

And as a follow-up, are the two agencies even using the same definition of a species under the Endangered Species Act?

Mr. SCHMITTEN. Congresswoman Unsoeld, we started a year ago recognizing the fact that in common drainages we had more than one species listed, and the Snake River is a good example where you have snails, bald eagles, potentially bull trout and salmon. We sat down and reached an agreement that none of our listed species should dominate what occurs, and even without formal guidance we began to work an ecosystem approach which recognizes that water was necessary for the survival of all the species. And so we amortized how much each one got, and we did this cooperatively with the U.S. Fish and Wildlife Service.

I think ours will be a prototype; the Timber Summit folks can look at how we are currently working. We need to ultimately put together guidelines that others can use. Maybe the Fish and Wildlife would like to comment also.

Mr. PLENERT. In order to avert what the Secretary of Interior calls a train wreck, we have worked together, as Rollie said, to look at allocation of water, we have developed—are working on developing a memorandum of agreement where we are going to review each other's biological opinions when we are dealing with the same water so that one of us doesn't get out ahead or do something that might affect the other's responsibility.

What you really addressed was a broader issue, and that is administration of the Endangered Species Act. It is really a quite cumbersome act to administer, and there are some things in there that I do believe need changing, and that is when the reauthorization comes up. For example, it does offer an opportunity to have difference of opinion and misinterpretation.

I will give you one example. Just sea turtles. The agreement that we have is that when a sea turtle is out in the water it becomes the responsibility of National Marine Fisheries. When it hits the land it is Fish and Wildlife Service's. Those are the kind of things that need to be corrected so we managers at the local level have an opportunity so we can work together better.

Chairman STUDDS. Do you see any mood changes in the turtle at all?

Mr. PLENERT. No, they don't seem to know. That is the whole bad part of this thing. But that is just one example of two agencies administering the same act, so I think even though we can pledge to work together and we can do all these great things, there is some inconsistencies and things that need to be changed so that we have an opportunity to work together better.

Mrs. UNSOELD. Yes or no, does that include the definition of species?

Mr. PLENERT. We are working on that right now. We have a committee put together at the national level where we have members from both of our regional offices to look and address that issue.

Mrs. UNSOELD. You know, you all might take into consideration why you are here today and the number of questions that are coming at you about coordination, and we are making those same questions to the people at the top of the administration, too, who are doing this and they are talking to each other and we hope you are talking to each other, and we are talking to each other, and by golly we are going to get on a common objective.

Thank you.

Chairman STUDDS. The gentleman from Maine.

Mr. ANDREWS. Thank you, Mr. Chairman.

I want to thank the panel. In my experience, relatively short experience in political life, I have found that difficult problems, intractable problems, if you are going to tackle them seriously and meaningfully you have to confront some very, very tough choices, so we saw that last week as the Congress began to deal with the problem of the budget deficit.

I serve on the Armed Services Committee along with Congresswoman Furse, and we are dealing with the problems of downsizing



and coming from a State that depends on defense spending, we are facing some very tough choices as we cut thousands of jobs. I am interested in the kind of tough choices that you see ahead if we are going to deal with this problem in a meaningful way.

Mr. Schmitten, I notice that in your testimony you talk about the recovery plan that you have been working on that is due out relatively shortly. You talked about it being scientifically sound and regionally supported.

I also noticed from Mr. Hallock's testimony, for example one of the four "H's", hydropower, he said hydropower is responsible for a substantial amount of the loss of salmon. At the same time, our regional demand for power has outgrown the dam's output. Today about two-thirds of the electricity that is used in the Northwest depends upon hydropower.

Two basic questions. Number one, what are the tough choices that we are going to have to face? We are going to have to face some very tough choices when it comes to hydropower if it is the primary source of the problem.

And, number two, we are grappling on the Armed Services Committee with the issue of conversion, that is to say to take those people and industries that are being hurt by something very desirable, that is cuts in defense, and try to tap those resources and put them to use in other directions. Is there a process in place right now for looking toward the conversion of those resources that might be hurt by any of the tough decisions that we might be facing here in the Northwest?

Mr. SCHMITTEN. Mr. Andrews, some of the tough choices I think we are going to have to face, when we look at a coast-wide restoration; it is a two step process. The long-term will be habitat restoration; and certainly we are talking in multitudes of life cycles of fish (four years); and are expecting at least four cycles for recovery, so 16 years out. In the short-term, I think consequences will be hardest, and we will affect the harvesters more and more as we institute a coast-wide restoration.

But I see an opportunity because of the conversion here to allow both displaced timber harvesters, people that worked in the timber industry as well as fishermen to work together to improve the habitat, and I see a real opportunity.

The other area for tough decisions comes in the Columbia and Snake system, and that is what do you do about hydropower, especially with the issue of drawdown. If the science shows that drawdown is a key issue for recovery, the Congress of the United States would be asked to pay between two and four billion dollars for the retrofitting of the four Snake River dams. That is an extremely significant public issue of great consequences that this Nation will have to grapple with.

I think our agency must give you the science, whether that drawdown is the logical approach to the restoration, and we are doing that. Once we have those answers, we will come before the committee and provide you that information.

Mr. HALLOCK. Mr. Chairman, we are losing power as we provide more water for faster flows to sweep the smolts to the sea faster. The Power Council is turning to conservation among all the utility community the better use of what electricity we have got vanderag-

ing the stimulated experimentation with renewables, geothermal, wind, solar, tidal, so forth, and then possibly at the end of the line might come some industrial reshuffling.

Right now the direct service industries utilize a third of the Federal hydro load. It is possible that 10, 20, 30 years from now that formula won't work commensurate with saving the fish and other demands for electricity.

Parenthetically I think you asked about cost. I hope you did. The cost of the program we are advocating can't be shouldered entirely by the ratepayer. We look at the Columbia Basin as something which the taxpayers of the United States, these being inland navigable waterways owned by the people of the United States should be equally responsible for, so user fees won't go on the whole thing either. That is why so many Federal agencies are relying on the general fund, their budgets are going to be involved.

Mr. TURNER. Congressman, my response is that many of these choices are short-term. The toughest choice of all is the long-term one. That is that we don't have the water we thought we had almost throughout the Northwest, a place where everybody believe it rains all the time. We do not have the water to meet all of the demands that people want to place on our water resources.

Mr. LOWE. In terms of the habitat, especially Federal lands, a lot of our tough choices have already been made to some extent in the President's plan. The things that lie ahead of us are to set priorities on how fast do we want to move in habitat.

Habitat, in answer to an earlier question, is not something that you turn around overnight, but I think the kinds of decisions we have to make is how fast and how much investment are we willing to make in some of the habitat restoration programs. I think coupled with that, we have to make some tough decisions: do we want to put our money in processes or do we want to put our money on the ground.

I think when you get into that arena there are some questions relative to how agencies are financed, not in terms of the total numbers of dollars, but we have talked a lot here today about ecosystems, and a lot of the budget process that now exists are really not conducive to that. I think some of those are the kinds of choices to get at the end product of really managing ecosystems, moving ahead with not only salmon but all the other issues is an important place to start.

Mr. ANDREWS. Thank you, Mr. Chairman.

Mr. PLENERT. I would like to make one comment, if I could. In all these deliberations, I would ask let's not forget California.

We have the same problems there on a different magnitude, but it is there, and the Central Valley, what I talked about in my testimony, the Central Valley Improvement Act, its allocation of water versus farmers versus fish and wildlife versus municipalities and some tough decisions and tough choices have to be made over the allocation of that short supply of water as well, so we mustn't forget the whole entire coast.

Chairman STUDDS. Even if we attempted to forget California, Mr. Hamburg won't let us.

The gentleman from California.

Mr. HAMBURG. Thank you, Mr. Chairman. Indeed, we cannot forget California. And mentioning the Central Valley Improvement Act, it has had some salutary effects on the Trinity-Klamath system, but we are still facing severely diminished runs of fish, and there is a lot more work to be done.

Part of that, of course, is habitat restoration. I just want to pick up on something that Mr. Strong said. This was actually part of a statement you made to the President's Forest Conference in Portland, but your statement was to the effect that native peoples lived here for some 700 generations and lived as part of a sustainable system. Salmon were a very important part of that system. And your statement was that in just ten short generations, America has reduced its life forms to struggling endangered species.

There is perhaps a lesson we can learn from this, that ecosystems once politicized always invite an irreducible conflict with human intervention, and I guess in some measure I am picking up on what my colleague from Maine began to talk about, which is how do we make these decisions when we have these kind of irreducible conflicts.

And one of the things I am trying to grapple with is our existing regulatory framework, how well it functions and how well—the extent to which it fails to function, and I would like to ask you, Mr. Strong, if you would comment specifically on the regional management councils and the extent to which you feel that they deal with these conflicts that we have because I know that the native peoples in my district along the Klamath River have been fairly dissatisfied with the degree to which political conflict has been worked out through these councils.

Mr. STRONG. Congressman Hamburg, thank you very much for the opportunity to comment.

First of all, the difficulty being specific about this is that tribal peoples were created with a culture that suggests very strongly that the human being must follow all of nature, and the irreducible conflicts that are created with politics is that the politicians are really yielding to the many interest groups and their constituencies. The constituency-based decisions are entirely different than resource-based decisions.

Tribes and tribal leaders have been raised since infancy knowing that the natural resources must come first, and that is a philosophy; it is an ethic. It is a value that has to be ingrained into people, and to exercise a forum and many of the regional processes that you are referring to based upon the last three years or even the last decade of data is not going to create that same sense of feeling, so what we have in the Northwest with the many different fora that are convened is this irreducible conflict because of competing funding for many of the projects, we have got just numerous plans that are on the table at the present time.

Some of the things that we look at are very natural. If we look at the hydropower system, it is unnatural. And the hydropower system, quite frankly, is the one that destroyed the habitat, and if you don't mind me saying so, the hydropower system is the one that spawned the need for hatcheries, and the hydropower system is the largest harvester on the Columbia River of salmon, not the

human beings. So it is a very complex situation, but I think it needs some simplicity applied to it.

Now, our simplicity was that our head chief told us when we could fish and when we couldn't. We didn't have numerous groups competing for that right to have a voice. They had only privileges, and I think that is why the tribes had asked originally that the governments who are responsible, the Federal, tribal, and State governments, be the authorities. We have got too many people, unfortunately, at the table, and too many tables, quite frankly.

Mr. HAMBURG. Thank you very much, Mr. Strong.

I really appreciated, as I read through the rest of your statement at the Forest Conference, the faith which you maintain that we can move past this and the spirit that Congresswoman Unsoeld mentioned that somehow we can pool our best talent and energy and will to move past these problems.

I would like to ask Rollie Schmitten, if I could, I believe that you commented recently that the regional fishery councils are merely advisory to the Secretary or something along those lines. I would just like to ask you to explain to me and to the committee what role you see for the regional councils in fishery management and what role you see that the Secretary and NMFS has in fulfilling the needs of the Nation's fisheries.

Mr. SCHMITTEN. Congressman Hamburg, if you reflect on my background, I was a State director and I still believe very strongly in States' rights. Therefore, I am a strong supporter of the Magnuson Act and I like the council process.

I think it is a democratic process. One of the things, if I would have been asked the same question as Mr. Strong, is I think we need full-time tribal representation. The Pacific Council, thanks to the State of Washington, allows for one council member to be a tribal member, and I think that it is imperative that we do that. Having said that, the Act, not Mr. Schmitten, has stated that the Council's actions are advisory to the Secretary and the Secretary has the final say. I think we as council members need to perfect our processes, when we send forward an action. I have only seen two actions in my 15 years of experience ever turned down. Unfortunately, we have seen two in the last year, and they were very significant issues to the economies of the West Coast.

I think we need a better communication between the Council, the Service, NOAA, and the Secretary and Congress. I think it is imperative that we do that, but still the Council process is a good one, and we can improve it. We shouldn't throw it away.

Mr. HAMBURG. Thank you, Mr. Chairman.

Chairman STUDDS. The gentlewoman from Washington.

Ms. CANTWELL. Thank you, Mr. Chairman.

I will have a twofold question which may save some time here. We talked about scientific data and information. I would just like to hear from some of the panelists whether you think that consensus exists on the scientific data needed to develop a cohesive recovery plan or do we need an independent body to actually develop that for implementation?

Second to that, the whole notion of coordination seems to be a key focus here this morning. It is interesting that both Washington and Oregon have implemented State land use plans.

We also have the experience of the Columbia Gorge preservation, which was a Federal regional mandate in which we worked out a process of making decisions.

Are we talking about a king decisionmaker or are we talking about a clarified process, maybe in the EIS, on how the plan is developed?

I would like your thoughts on that.

Mr. TURNER. I take it that those questions are directed at the recovery of Columbia River, Snake River fish?

Ms. CANTWELL. Yes.

Mr. TURNER. I think if you asked a group of people representing a broad range of interests in the Columbia whether there is consensus on data sufficient to move forward on a recovery plan, you would get a wide variety of answers, all dependent on whether they believe they are going to be adversely affected by the recovery plan or not.

Ms. CANTWELL. So does that mean you think we need to have a scientific body to make that decision?

Mr. TURNER. No, I believe that there are overwhelming amounts of data to indicate what kinds of actions should be taken now to move forward. As Mr. Hallock pointed out, as one of the things that needs to move forward is monitoring evaluation of the things that work so that we can evaluate and gain the data that provides us the confidence to add to those measures and move forward and move away from the ones that do not move forward. We cannot not do something for the lack of data that convinces everyone that it is a great idea.

Ms. CANTWELL. Well, then whose data do we use?

Mr. TURNER. We use the data that is available and we use all of it that we have our hands on right now, all of which is, in my mind, and I will defer to Rollie, sufficient to point us in a direction that we should pursue and monitor and evaluate those actions.

Ms. CANTWELL. Mr. Schmitten.

Mr. SCHMITTEN. I will add to that. Science certainly is important. It is a foundation which we make our decisions by. It reflects the makeup of the recovery team, which is prominently made up of key scientists.

There are over 200 years of experience in the team, but simply stated the fish can't always wait for science. You can go so far and you must use best judgment; you use available science and make decisions. If you find down the course of time that they need to be modified, you make the changes, but we have to take action. We have to put the recovery plan in place, and get it operable as soon as possible.

Ms. CANTWELL. So whose scientific data do we use? All that there is consensus on, or yours, or Mr. Turner's, or the Northwest Power Planning Council?

Mr. SCHMITTEN. I would use it all, and I would find the guiding lights through all of it. Where there is uncertainty I would err on the side of fish. I think that is my responsibility to you as a fisheries manager. Most of the key issues we know, and we have at least a majority opinion on. The only unknown currently is drawdowns. We need additional testing on fish travel time. Those tests are

going forward. Other than that, we are prepared to move on recovery.

Mr. LOWE. I would like to agree really with what has been said. The issue of fish being a major part of the President's plan for forest where we have the northern spotted owl, and I think that that plan recognizes the issues related to what the scientific data is, but it takes the best information that is available at the time, and it starts some action now rather than waiting until all that data is put together.

But in the same process, it puts together a system of doing watershed analysis that will allow us to refine as we move forward so that we can take action now rather than waiting until the data is refined. But it gives us that opportunity to adapt it as we go. I think the issue really is we need to get on with it and not wait until everybody agrees to what the perfect solution is.

Ms. CANTWELL. Well, I agree with that, we definitely need to get on with it. But it seems to me that there are some differences about what we actually use.

I guess that comes to my second question, do you gentlemen here who have really dealt with this on a day-to-day basis, have interacted with each other, who have seen our inability to really finalize this and move on, are you recommending that we establish a lead agency in this or do we need to clarify a process by which that plan is finalized and then implemented by the various entities?

Mr. HALLOCK, you have been very blunt and brief today, how about you?

Mr. HALLOCK. My answer to you would be yes, there aren't two parts to your question, there is one part. Yes is the answer, that taking the second part first, you structure, you and Congress structured the response, and I believe that it probably will end up, whether it is the czar or not, with some kind of better focal point than we have today or—and/or what I suggested to Congresswoman Furse is that the President express his personal concern and make that concern known to his cabinet which in turn will tell the agencies below him that, by George, his intention is to recover the salmon, the fish.

Mr. TURNER. Congressman, our development of a recommendation on this issue at the State of Washington is sort of with the tribes as work in progress, but I can tell you that our sense is that there needs to be a Federal coordinator.

Now, whether that is in an agency or independent of an agency, whether you acknowledge that there is a turf fight or there isn't a turf fight, I think is something we will dodge, but a need for a coordinator is necessary.

One other point, before I conclude, about the forest plan and its relation to fish. I hope the committee keeps in mind from our perspective that while the plan itself will be good for fish, it is at current state of development focused on Federal lands, and as such it will not recover the fish resources in the Northwest by itself because Federal lands are only, and in some places not a very big, part of the habitat problem affecting fish resources.

And so I would urge you to keep in mind the alternative or an option that would allow private and State landowners to move into habitat conservation plans along with Federal lands in those ripari-

an areas. That is what is going to fix the fish problem, not just a Federal focus.

Ms. CANTWELL. Thank you, Mr. Chairman.

Chairman STUDDS. Let me say that while the congressional hearing process may seem a bit—I don't know what is the word, you pick your adjective—strange, it sort of works by osmosis. We really do learn this way, believe it or not, and we very much appreciate your time.

I am sure members of the committee have more questions, but the clock will not permit them orally. Any members who do, they certainly can be submitted for later response in writing.

Thank you very much for your time.

Let me say as the second panel comes forward, by prearrangement the gentleman from New York is going to chair this portion of the hearing. He has jurisdiction over the Magnuson Act in his subcommittee, and we will move as quickly as possible. I am going to have to keep another obligation for a few moments. I will return shortly. Let us re-gather, re-group as quickly as possible.

Mr. MANTON. (Presiding.) We would ask the second panel to come forward, Mr. Frank Dulcich, President of the Pacific Group; Ms. Kate Graham, Executive Director of American High Seas Fisheries Association; Mr. Joe Easley, Administrator, Oregon Trawl Commission; Mr. Stuart Looney, CEO, Royal Seafoods, Incorporated; Mr. Jay Rasmussen, Executive Director, Oregon Coastal Zone Management Association; Mr. Ron Jensen, the Director, Tysons Foods, Incorporated.

In the interest of time, we are going to reengineer the lights so that instead of five minutes on the green light we are going to ask you to confine your testimony to three minutes, at which time when you have one minute left the yellow light will go on.

When your time is up, you will see a red light.

Course correction, the panelists will have the usual five minutes; the members' questions will be curtailed this time to three minutes. I guess we will start in the order that we called your name, so the first panelist will be Frank Dulcich.

You may proceed.

#### STATEMENT OF FRANK DULCICH, PRESIDENT, THE PACIFIC GROUP

Mr. DULCICH. Thank you, Mr. Chairman.

I want to thank the Merchant Marine and Fisheries Committee for the invitation to participate in the field hearings on the fisheries management.

My name is Frank Dominic Dulcich, the President and CEO of the Pacific Group, a vertically integrated seafood company which employs over 1200 team members.

Mr. MANTON. Could I interrupt you for a moment, Mr. Dulcich? I know we have some spirited discussions going on in the back. I don't want to cut that off, but if we could just take them outside so we can hear the witnesses, we would appreciate it.

Thank you.

Proceed, please.

Mr. DULCICH. We are a family-owned company, and believe in enabling our team members. An example of that is we contribute over 10 percent of our pre-tax profits to their profit sharing plan to ensure their economic future.

I have founded all but one of the companies, that being Pacific Seafood, which was started by my Croatian immigrant grandfather and for whom I was named and my father Dominic. My grandfather began selling seafood from a push cart on the streets of Oregon over 60 years ago.

Our family and many of our team members have financially provided for their families for two or three generations by either fishing or being involved in the processing and distribution segment since their grandparents or great grandparents became citizens of this great Nation.

The Pacific Group has grown into a vertically integrated company which means it has a fishing vessel, it has processing facilities in Westport, Washington; Warrenton and Coos Bay, Oregon; Eureka, California and Nikishka, Alaska and distribution facilities in Mukilteo, Washington; Seaside, Clackamas, Portland and Medford, Oregon and Sacramento, California.

We have an international marketing group that exports our fisheries products to the Pacific Rim countries and the European Community.

I am delighted to see Congresswomen Unsoeld, Furse and Congressman Hamburg on this committee. I see them coming in now. I regard all these as our congressional representatives, all three. As fishermen, processors and distributors, we know we must be stewards of our great national fishery resource. As stewards we are responsible for sound conservation and proper management of this resource for future generations to enjoy.

We also must be cognizant of the social and economic ramifications of our actions. I will state our company's view which we unequivocally believe would enhance the Magnuson Act to ensure conservation of our national fisheries resource, and we believe that it is imperative that specific changes be made to the Magnuson Act to enhance the management and conservation of our fisheries resource. Due to time constraints I will only address the most pertinent issues.

That is under the first section to be addressed is under section 3 definitions, under section 101, 627, number 16 defines the term large-scale driftnet fishery. We support an amendment that would reduce the maximum length currently used in high seas driftnet fisheries to a length not more than one-half mile. The reason for our position that the technology we possess and the use of this technology in high seas driftnet fisheries is capable of decimating the prolific fishing grounds of the world. This indiscriminate fishing method takes not only its targeted resource but anything within its path. This type of devastation in international waters must be stopped.

Under the same section, number 21, we define the term "optimum". We support a change to A, to be amended as follows, "which will provide the greatest overall benefit to the Nation with particular reference to food production, employment, and recreational opportunities for the citizens of the United States."



As you are all aware and to the best of my knowledge, all industrial nations have nationalized their fisheries resource for the benefit of their nationals. We must ensure first and foremost that we provide availability of our fisheries resource to the citizens of the United States, both for commercial employment and recreational enjoyment.

Under Title 2, foreign fishing, international fisheries agreement, under section 101-267, section 206, large scale driftnet fishing, under B findings, "the Congress finds that, two, the use of large scale driftnets is expanding to new regions of the world's oceans, including the Atlantic Ocean and Caribbean." We support an amendment that would include the Pacific, Antarctic and Arctic oceans.

Additions to the Magnuson Act. The Magnuson Act must be amended to instruct the States or the proper bodies to identify the nursery grounds where bottom fish spawning occurs. We need to prohibit fishing on these identified areas during spawning.

As stewards of our national fisheries resource, we must learn from the collapse of many of the New England fishing stocks some 15 years ago which primarily occurred due to overfishing. Statistically higher catches have always resulted during spawning areas when these great schools of specific species congregate to spawn in traditional nursing grounds. Year after year we have harvested this resource without regulation and began to systematically devastate future age classes of fish stocks for our industry and our Nation to enjoy.

We must prevent any future ruin of these delicate fish stocks to preserve fishing in the Northwest and Alaska, where stocks remain relatively prolific when compared to the Eastern Seaboard. Under title 3, the National Fisheries Management Program, under section 301, which are standards for fishery conservation and management, under section 98-623, it is imperative that language is added that protects the shore-side processors and seafood distributors and their employees. The Magnuson Act accomplished its specific objectives quite well since its enactment in 1976.

However, with the changing economic and social coastal community interdependence on fishery resource, coupled with the national per capita consumption increase of seafood, it is imperative that the United States Government continue to acknowledge and support the fishermen and their families, but also acknowledge and support through the Magnuson Act the processors and distributors that depend on this national resource for their livelihood.

This significant piece of legislation cannot be exclusive of the processing and distribution families who ensure that this national resource is properly processed and efficiently distributed to our Nation to enjoy. According to National Marine Fisheries Service statistics, there are over 73,000 families from the processing and distribution segment that depend upon this resource.

The statistical information does not include the retail seafood counter employees, as an example, restaurant wait staffs and other business entrepreneurs that sell and promote this national resource to the American consumer. It would be a serious detriment to all the families who depend on this resource if our Federal Government missed this opportunity to enhance the social and econom-

ic values these families depend upon. And the Magnuson Act needs to encompass the social and economic values of all seafood participants. It is imperative this national resource benefit our entire Nation without compromising the conservation and sound management practices of our fisheries.

Mr. Chairman, Congresswomen and Congressmen, staff, thank you for the opportunity.

[The statement of Mr. Dulcich may be found at end of hearing.]

Mr. MANTON. Thank you, Mr. Dulcich.

Our next witness, Ms. Kate Graham.

#### STATEMENT OF KATE GRAHAM, EXECUTIVE DIRECTOR, AMERICAN HIGH SEAS FISHERIES ASSOCIATION

Ms. GRAHAM. Mr. Chairman, Members of the Committee, I am Kate Graham, Executive Director of American High Seas Fisheries Association. We are a group of traditional trawl catcher vessels, homeported in all four West Coast States, who participate in numerous groundfish fisheries in the Bering Sea, the Gulf of Alaska and along the Pacific Coast. We don't process the fish we catch but instead sell them both to shorebased and to floating processors. We were part of the joint venture fleet that pioneered the harvesting of groundfish all along the West Coast.

We are proud of the part we played in achieving the original goal of the Magnuson Act, the Americanization of our Nation's fisheries. The Magnuson Act is the cornerstone of our industry, and we are pleased to have the opportunity to address the committee today regarding reauthorization of the Act.

My written statement contains our views on such issues as the balance of authority between the Secretary and the councils, conflicts of interest, council composition, and additional tools that might be useful in managing our fisheries. It also has a section on conservation measures, and I would like to use my time today to address that topic in more detail.

American High Seas has always been a strong advocate for the conservative management of our fisheries. For us, fishing isn't just a business venture, it is a way of life, and we want our children to have the same opportunities that we have had. It is significant to those of us who were pioneers in the industry that the Magnuson Act emphasizes resource conservation.

The problem is that it simply isn't possible to protect our resources effectively as long as we continue to use the Olympic system, which is the management regime that is the basis for most of our commercial fisheries. The Olympic system spawns a race for fish, a contest to see who can catch the most, the fastest. The result is our industry's dismal safety record and overcapitalization in both harvesting and processing capacity nationwide.

It is also the root of our conservation problems. The Olympic system actually discourages the reduction of bycatch of non-target species and at times even provides an incentive to discard target species. There is little inducement to fish responsibly other than one's own sense of what is right.

Our association has consistently been a vigorous proponent of conservation and has initiated several measures to promote it, both

through the council system and voluntarily within the fleet. One of our biggest frustrations is that the system penalizes us for doing this.

To develop these measures we lost both catch and fishing time, and under the Olympic system this put us at a competitive disadvantage with other fishermen. This is very discouraging for those of us who understand the need for responsible fishing practices.

People often cite the reduction of bycatch achieved by the foreign fishing fleets and decide that we must be wasteful and irresponsible for not doing the same thing, but they are overlooking a critical difference between the two situations. The foreign fleets were essentially operating on individual fishing quotas.

When each country had used up its share of bycatch, its boats had to stop fishing. The domestic fleet, on the other hand, is treated as one huge entity. Until each fisherman is made accountable for his actions, our efforts to achieve effective conservation of our resources will be stymied and the dirty fishermen can continue to hide behind the rest of the fleet.

This situation is one of the major reasons the members of our association are strong proponents of an individual transferable quota system. A carefully constructed ITQ program will stop the race for fish and will reward the clean fishermen while penalizing the dirty ones.

The most effective action Congress can take to achieve the long-term health of our fishery resources is to direct the councils to establish systems that promote individual accountability. The Act is currently silent on this subject, and that omission has led to the precarious situation we find ourselves in today.

A good fisherman is flexible and creative, and there is no better stimulus for his innovation than knowing that he is going to be sitting on the beach if he doesn't fish responsibly.

I will be happy to answer questions about my testimony or about our support for the joint industry statement that Congresswoman Cantwell introduced into the record.

In addition, some of our members participate in the whiting fishery, delivering, primarily to at-sea markets, and you may have questions about our views on that subject.

Thank you for your time.

[The statement of Ms. Graham may be found at end of hearing.]

Mr. MANTON. Thank you, Ms. Graham, you beat the clock.

Next witness, Mr. Joe Easley.

#### STATEMENT OF JOE EASLEY, ADMINISTRATOR, OREGON TRAWL COMMISSION

Mr. EASLEY. Mr. Chairman, members of the committee, my name is Joe Easley. I am administrator of the Oregon Trawl Commission, which is a commodity commission which has its members trawl vessels that land their product in Oregon, fishing in the northeast Pacific.

We don't believe the Magnuson Act needs a great deal of change. We think there is a few things that could be addressed, but we are not one of those that is calling for a lot of changes.

As far as conservation is concerned, we think that the Secretary has all the tools he needs to hold the Council's feet to the fire if he has the will to use it.

On conflict of interest, we have heard a lot about that, out of the North Pacific it has been getting a big play. Everyone has got conflicts of interest. It just depends on where your interest lies. In our case even the States do. They get fees, landing fees out of the product that is landed—even the so-called environmental organizations. Since a lot of them are using it as a fund-raising gathering thing, I think it is way overblown. You do already require people to disclose their interest in fisheries. In fact there is so much rigmarole about the employment of council members, I know a few good people that have declined to accept a nomination from the governor just because of all the fingerprinting and everything else that goes on.

Dedicated seats for any organizations, I am opposed to them, we are opposed to them. We think you have got enough dedicated seats with the States and the Federal seats that are there. The rest of them should not be dedicated.

There is no way that everybody can have a dedicated seat with all the interests that are in the fisheries. What you need to do is pick good people, not dedicated to some interest.

There is a lot of talk about individual transferable quotas or fishermen's quotas. We aren't necessarily opposed to them, but in our look at them so far we think that the cost is rather high for the management of those. We think that maybe you ought to take a close look at that and see if it really makes sense.

The one they are talking about here in the Pacific, the enforcement people tell me it would cost \$6 million to enforce it, and then they don't think they can enforce it very well, and that is about as much as the exvessel value of the fishery, and that don't make a lot of sense. Fees for government to cover the cost of management, we don't reject the concept.

We do think that there needs to be some discipline or sideboards to go along with it. First, we believe that there needs to be an overall cap on fees that can be charged against any fishery, taking into account the fees also charged by States.

Second, we believe that there needs to be an intense look at how the gathering of information to base management or is collected, with the thought of looking for less expensive ways to do it, and if the information is actually going to be used and what for. I have seen a lot of information that is collected, just gathers dust and is never used by anybody. If that is what we are going to do with it, it don't make much sense.

Fourth, if the fees are to be charged to commercial fisheries, we think there should be in the law that the money collected is spent in the region where it is collected.

And fifth, we believe that there should be a review committee made up of members from the commercial fisheries that have an oversight of how that money is being used for management. We think it ought to be in a revolving fund so that it can be used and doesn't get tied up reducing the deficit or something else.

Bycatch. It is our experience that every fishery is different, and you can't craft a legislative solution that will fit all the fisheries.

But if you think you need to address the issue, we would suggest that you have the councils address it on a fisheries'-plan-by-fisheries'-plan basis. We do think it is an issue that is becoming more of an issue.

One of the biggest problems we see with it is that there is no good definition of what we mean when we are talking about "by-catch". You talk to different people and you get different answers, so we need one good definition of what bycatch is. Are we talking about regulatory bycatch or are we talking about things that nobody wants, jellyfish that they throw back over?

What are we talking about?

We did include some language for an amendment to the Act, for regulatory actions that the Secretary, that the councils turn in and we understand that language will be introduced in the Senate, and we would like to see it introduced in the House. We think it would have solved much of the problems with the two recent turndowns we had by the Secretary here in the Pacific.

Thank you very much.

[The statement of Mr. Easley may be found at end of hearing.]

Mr. MANTON. Thank you, sir.

Mr. Stuart Looney.

#### STATEMENT OF STUART LOONEY, CEO, ROYAL SEAFOODS, INC.

Mr. LOONEY. Thank you, Mr. Chairman, and the members of this committee, for the opportunity to discuss the Magnuson Fishery Conservation and Management Act.

My name is Stuart Looney. I am the President and Chief Executive Officer of Royal Seafood, Inc. We are a U.S.-owned vertically integrated fish harvesting and processing company, and one of the West Coast's largest dedicated whitefish manufacturing, marketing and distributing firms.

We operate three catcher processors and a shore-based secondary processing facility at Pier 89 on Elliott Bay in Seattle. Our products are sold exclusively to grocery chains and restaurants throughout North America. I can think of no better example of the success of the Magnuson Act than our companies which got a start in the early years after the passage of the Act.

However, our recent experiences under the management system created by the Act also evidences some of its weaknesses. In 1989 our three vessels operated 12 months a year and harvested approximately 110,000 metric tons of fish. At that time we employed approximately 500 employees. Now in 1993 we are down to operating approximately four months a year, and our vessels operate—or our production is down to 30,000 metric tons and our employees now number under 250.

None of this decline is the result of any problems in the fishery stock. While business downturns have many causes, what happened to us and the rest of the at-sea industry was in reality a failure of the fisheries management system. My prepared testimony addresses the evolution of that system and suggests a number of potential changes.

Because my time is limited today, I will cut right to the chase. Chief among my concerns are those involving actual and perceived

conflicts of interest among council members charged with the stewardship of our natural fisheries resources. Over the past two years nearly a dozen editorials ranging from the Seattle Press to the Anchorage Daily News and The Washington Post have called for an overhaul of the Act.

A widely-read series of articles and editorials in the Seattle Times characterized the councils as monopolized by fishermen, riddled with multi-million dollar conflicts of interest that would not be tolerated in the landward, oil or timber industries. Similarly, the Anchorage Daily News concluded that the council structure was ethically bankrupt, observing "We don't let Exxon, ARCO or British Petroleum run the state department of environmental conservation. We don't put people from the phone and electric companies in charge of the State public utilities commission. We shouldn't turn Federal fisheries over to fishermen whose decisions directly affect their personal fortunes."

I am providing copies of these articles as part of my testimony for the record.

Some of the examples listed in the press reports have been brought to the attention of the Fisheries Management Subcommittee by Representative Unsoeld and, Mr. Chairman, I think they will astound you. Consider the following: The Chairman of the North Pacific Council is the Vice President and full-time lobbyist for the principal trade association representing the winners of the billion dollar North Pacific groundfish in-shore/off-shore dispute.

One council member changed his vote and tabled a far reaching rule he had previously favored after taking a \$1,250 a week job from the opposing side. Another council member voted to allow a Japanese fishing company to take ten million pounds of cod from the EEZ after he struck a deal, private deal for his company to sell them a million pounds of cod fillets.

Another council member supported the groundfish in-shore allocation plan once freezer, long-liner vessels of less than 125 feet in length like his own three vessels were considered to be part of the shore-side allocation.

One council member wrote to a leading fisheries trade association thanking them for lobbying assistance in his effort to get on the council as follows: "There is no question that I never would have been appointed had it not been for your strong last minute lobbying blitz. I am going to work hard on the Council and I don't think you will need to spend a lot of time figuring out how I am going to vote."

Mr. Chairman, I, for one, believe it is time to take a very serious look at the Act. It is time to make the needed changes to restore public confidence in the process. The Magnuson Act is the only Federal statutory scheme that is totally exempt from the Federal conflict of interest laws, yet the decisions at stake involve who should get free access to billions of dollars of fisheries resources. If anything, we should be striving for stricter conflicts of interest standards.

In my prepared testimony, I have outlined some 18 specific proposals for addressing these conflicts. These begin with tightened financial disclosure requirements and a basic recusal mechanism. Although the current act has a financial disclosure requirement,

unlike typical disclosure provisions, once this disclosure is made, there is no requirement for the member to be recused, no matter how directly he or she may benefit from the outcome of the issue under consideration.

I also offer suggestions on how to improve economic allocation decisionmaking and to make the council process more accessible to the general public. You will note that they all have a common theme—restoring integrity and public confidence in our national fisheries management system.

I would be pleased to address any questions you may have about the proposals in my prepared testimony and remarks this morning. Again, thank you for the opportunity to address you.

[The statement of Mr. Looney may be found at end of hearing.]

Mr. MANTON. Thank you, Mr. Looney. Your exhibits will be made a part of the record.

Mr. Jay Rasmussen.

#### STATEMENT OF JAY RASMUSSEN, EXECUTIVE DIRECTOR, OREGON COASTAL ZONE MANAGEMENT ASSOCIATION

Mr. RASMUSSEN. Mr. Chairman, members of the committee, my pleasure to be here and to represent Oregon's coastal communities. I represent an association of 41 local coastal governments, counties, cities, and ports along the Oregon coast. I am very pleased that you are here in a field hearing, a rather unique circumstance for us all, and I am particularly pleased to see that Congresswoman Furse is a member of the committee. So welcome back to Oregon, even so briefly.

Very briefly today, and I am sitting here kind of at the end thinking a moment ago that if this were a family, I would soon learn to get to the table earlier, I would lose weight, something I wanted to do, but I am stuck over here in the corner a little bit. I hope you don't mind.

Oregon's coastal communities only comprise roughly 10 percent of the State's population, and the State's population is slightly one percent of the national population, so it is essentially a very rural area. It is an area also very heavily dependent, its industries, on natural resources.

On the Oregon coast in one case, for example, Astoria on the mouth of the Columbia River, in Clatsop County, roughly 27 percent of earned personal income is generated by the fishing industry, or not generated by the fishing industry as times become difficult.

I would like to speak to you today just about one issue. It came out of the Pacific whiting issue problems this last year, and to relate to you that the Oregon legislature in its wisdom here this past session finally ending last week passed a memorial that seeks some corrective mechanism, corrective changes to the Magnuson Act. They come specifically, I guess, to the issue of fairness and process.

What the amendments do is suggest, and very similar to what I think the councils will be suggesting or have already suggested, that the Magnuson Act be amended to include regulatory amendments as plan amendments in a time-ticking clock sequence. We

had a situation last year in Pacific whiting, regardless of how you feel on the issue, where the final decision was made the 16th hour of the first day of the fishing season, after approximately one year of discussion within the council, and some consideration by the Federal oversight. So we would like to have some timeliness and some efficiency, 60 days, for example, as in plan amendments for regulatory amendments as well.

We would also like to see a greater consultive role, the Federal Government would involve itself with the councils. We had a situation in Pacific whiting, again this year, where the Federal oversight administrations received the Pacific whiting recommendation in December. In February the regional director of NMFS made a determination. That was overturned one month later by NOAA, which was overturned eventually on the 16th hour again of that opening day by the Commerce Department. With no consultation whatsoever with the Pacific Fishery Management Council, which, by the way, was meeting the week before the final decision in Portland and would have been able to at least offer some advice and consent.

So the second part of this amendment really speaks to that issue of trying to give the councils an opportunity to receive input from the Federal oversight agencies and provide in a sense some obligation on the part of those agencies to listen to what the council has to say and have the council have an opportunity to explain its decisions in an open forum.

There was a lot of discussion on the Oregon coast and certainly in this State this last spring, decisions that were not openly arrived at, decisions that were absolutely contrary to the council's decision.

I will close with that and try to save you a little bit of time here today and again just offer that these are recommendations not only of the coast and of the coastal communities but of the legislature of the State of Oregon.

I thank you all very much. It is a pleasure to see all of you here. [The statement of Mr. Rasmussen may be found at end of hearing.]

Mr. MANTON. Thank you, Mr. Rasmussen for saving us a little time. We didn't dim the lights because you were testifying. I just wanted you to know that.

Our next witness, Mr. Ron Jensen.

#### STATEMENT OF RON JENSEN, DIRECTOR, TYSON FOODS, INC.

Mr. JENSEN. Mr. Chairman, members of the committee, I am Ron Jensen, Director of Tyson Foods. And you probably wonder why a chicken man is up here.

Well, our company, Tyson, bought Arctic Alaska Fisheries last October, which is the largest at-sea processing company in the United States for fish products. I am past President of Pan Alaska Fisheries, which was the largest king crab producer in Alaska and past President of Bumblebee Seafood, which also was one of the largest salmon canners in Alaska. So I wear a lot of hats, both shore-side and offshore.

I have been in this business 40 years. I have seen a lot of changes, some for the good and some for the bad. One of the things



that concerns me is that we started this process in the early 1970's in bilateral treaty negotiations with foreign countries; we ended with the 1976 Act; and then in the early 1980's we had industry to industry meetings with the Japanese and Russians and various countries by industry to industry, which I chaired to try to get the industries of these countries, especially Japan, off our fisheries.

I think we have made substantial gains by the U.S. fishermen in displacing all the foreign fishing activity off our coast and in the growth of the U.S. processing sector. But I don't think all has gone as anticipated. There are important conservation and management problems that require immediate attention.

Specifically Congress needs to emphasize market-based solutions to fishery management problems and restore credibility to and improve administration of the regional fishery management council process. For a person that has been president of companies that have been the largest, obviously I have been production-driven.

Well, I am wearing a new hat today because I believe in it, and that is market driven, and I think this process has got to look at that when you look at the Magnuson Act. We must recognize that many sectors of the U.S. fishing fleet are now overcapitalized. In dealing with overcapitalization, councils have attempted to solve scarce resource issues using allocation schemes that transfer benefits from one sector of the fleet to the other, frequently leaving access issues unaddressed.

I think this is very important that this has to be addressed, the overcapitalization issue.

Conflict of interest issues have in some instances gone beyond that expected by the framers of this act. You have heard that today at this table by other people.

Distribution of council seats among States has resulted in a single State dominance of council decisions. Lack of funds and/or political manipulation has resulted in delegating council authority for multi-State fisheries to single States. That should be looked at.

There is inadequate and questionable use by some councils of their SSCs. There is a serious lack of legal advice or direction at the council level. There also is an erosion of the quality of council members.

NOAA has for all practical purposes abandoned its stewardship of this resource. In order to address these shortcomings, modifications to the Act or to the administrative direction given councils is greatly needed.

Kate mentioned ITQ programs. We strongly support ITQs. We hope that during this process of reauthorization that that is addressed. I am sure it is not for everybody across the country and in certain fisheries, but I tell you in the North Pacific we think it is definitely needed in order to root out some of the problems that are inherent in that fishery.

What are the benefits of the ITQ programs? Well, eventually they reduce overcapitalization. They reduce discards. This has been shown in the CDQ fishery where they are not on the Olympic system. Some discards are mandated by regulation, such as halibut, herring and salmon. Those will continue to be, but you will have less discards.

There is a bycatch implication. Slower fishery allows avoidance tactics and gear experimentation so you are not out there just fishing your fannies off because you know the gun is going to go off and the season is going to stop. You can take your time and take that fishery at your leisure. There is major market implications.

In the past we have produced all our surimi on some of our factory trawlers in a two to three-month period and sold it over a year-and-a-half. Why aren't we producing it at a time when we can market it rather than store it? There is quality advantages.

We can take advantage of seasonal fluctuations when the product is in better form to catch and process rather than taking it right now because we have to take it, because if we don't, the guy next to us will. There is utilization by having higher recovery rates because you can run your operation slower and get better recovery for the fish.

That is just some of those issues. So with that, I would like to end and thank you very much, and I am available for questions.

Thank you.

[The statement of Mr. Jensen may be found at end of hearing.]

Mr. MANTON. Thank you, Mr. Jensen.

That concludes the testimony of our panelists. We now move to the question and answer phase, and for those members who may have been out of the room, we changed the time mechanism so you are now limited to three minutes for questions. I think we have about a half hour before we have to be out of here, so I am going to be brief.

It seems that conflict of interest has popped up in some of the presentation here today. What should we do about that in the broadest sense, anybody?

Disclosure statements? We have to file them as Members of Congress, as do other people within the administration, the State legislature, city councils. I know when I was in the New York City Council they passed a law that required disclosure. We are all living with it.

Should that be true also of council members?

Mr. Looney?

Mr. EASLEY. It is required right now, the disclosure, of any connection to the fishing, any money coming out of the fishing industry. At least in the Pacific Council you can get them from the council staff if you want.

Mr. MANTON. Are they sufficient? What is in the law now?

Ms. GRAHAM. To the extent that they go, sure, they are, but we think there are a couple of problems. One is that not all interests in the fishery are financial, and that is the only thing that is required right now.

There are a lot of recreational fishermen sitting on councils, for instance, that have no financial interest but they have a real strong interest in what happens in allocation disputes, so we think that part of the law should be broadened to include that.

We also think really we are talking about a perception problem more than anything else, and one of the things that you could do to take care of that is to require something like a two-thirds majority for allocation issues. You don't need to compromise to get a simple majority, but for two-thirds, it is a lot tougher to do that.

The West Coast councils, the Pacific and North Pacific, would both benefit with something like that.

Mr. MANTON. Mr. Looney, you made some pretty strong points on that.

Mr. LOONEY. Without a doubt, keep in mind that I think in reality when you are talking about conflict of interest, that is a vehicle and a mechanism traditionally thought of and utilized in order to achieve trustee, fiduciary-types of decisions. It is a check and a balance in the system to ensure that out of the process comes unbiased decisions made on the best scientific evidence, the record as it exists and in relationship to the Magnuson Act that it comports with the national standards.

The idea of how to achieve those checks and balances is a novel idea. Where we are today with the Magnuson Act very simply is that there is no conflict of interest standards. Essentially what the Act says is you tell us in a piece of paper what your conflicts are, put them in a file drawer, and there they stay. As long as you have disclosed all of your conflicts on that sheet that sit in a file drawer in the council offices, you are totally exempt from any actions that you may take on the council.

We have under Federal statutes a wide variety and even you as a Member of Congress have very definite ethics standards. We have FACA, Federal Advisory Commission Act. We have 18 USC 208. It is not a far reach to go find what are acceptable standards as it relates to conflicts of interest.

Mr. MANTON. Mr. Jensen.

Mr. JENSEN. Well, I think at a minimum that we should require that all councils that have allocation proposals not based on historical performance of the user groups be passed by a two-thirds majority. I think you have got to get away from that and get into a two-thirds majority, and I support what Kate just said to you earlier.

Mr. MANTON. Thank you, Mr. Jensen.

I have a little remaining time, I think. Management-based proposal I think was your word—or market-based solutions. Tell us—I am out of time. Maybe we will pick it up from one of the other questioners.

The Chairman of the full committee, Mr. Studds.

Chairman STUDDS. Thank you. I apologize for missing some of the oral testimony. We have just been informed by the military personnel in whose hands our lives literally reside that we must leave by 12:20, so I will be very brief.

I was just looking at the Act. I think Congressman Young of Alaska and I, and I guess Congressman Hughes of New Jersey are the only remaining members of this committee who were in the Congress when this was passed, and in fact originally this bill was referred to, as some of you oldsters may recall, as the Studds-Magnuson Act. Subsequently the Senate in what I think was an unprecedented act literally changed the statute that attributed Senator Magnuson and named it in law the Magnuson Act.

I was wondering at the time about that senatorial action, but the more problems we have with the Act the more I am prepared to concede to Senator Magnuson the authorship of it. The first bill we introduced was two pages long, as I recall.

The statute is now 68 pages long, and obviously about to be added to, I assume, which is a little bit frightening. We never imagined the unique and strange creatures known as fishery management councils when we first introduced the law. They sort of grew as we have debated it in the year or two thereafter.

I don't think we would ever create them again exactly as they are from scratch. Let me just ask you, I know you can't get it in detail, and I did not hear all the testimony, but did anybody suggest rethinking totally the creatures known as fishery management councils or simply tinkering with them?

I mean, I can imagine the yelps that would go up at this point if we tried in the current climate to create management agencies populated in large measure by the regulated industry.

Ms. GRAHAM. Congressman, we are strong supporters of the council system as it exists. We believe that local problems can best be handled in the place where they are coming from. We like the balance of authority that is in the Act right now so that the Secretary is able to take care of these conflicts of interest that tend to arise, but we like having fishermen talk about and have the authority to decide what happens to those fisheries. Their livelihoods depend on it, and actually most of them do a pretty good job of taking care of the resource. We like it.

Mr. JENSEN. Mr. Chairman, I think the process is fine in one sense, but what we are talking about or I am talking about here is a move to strengthen NOAA stewardship in our Nation's fisheries resource and to ensure the council decisions are in compliance with the intent of the national standards. I think that is very important.

The second thing with that that I think has been overlooked and maybe should be discussed at some point or thought about is to support a national review body independent of NOAA to assume responsibility for examination of council plans in terms of conformance to national standards. That is a real concern. And whether it is the National Academy of Sciences or some other type of review board, I think that is something that should seriously be looked at because you need an independent body to take some of the politics, excuse the word, out of the process that gets so involved in it, and I think that is something that we should seriously look at, and that is in my written testimony.

Mr. EASLEY. Mr. Chairman, I think if you come up with a system that didn't include the wide public participation that the council allows, you would have a wail from the industry at least that you would continue to hear for a long time.

Chairman STUDDS. My question, as you can imagine, reflects the frustration of those of us in New England at the moment with the system. Let me just say that Mr. Young and I, if we have to get in a major rewriting of this statute, we are going to rename it. It is going to be the "Young-Studds Act."

Mr. MANTON. On that note, the Chair will recognize the gentlewoman from Washington.

Mrs. UNSOELD. How do I follow that? We have heard several comments, and I would agree, that the council, there is a lot to be said positively about the council system, but Mr. Looney, in your view can the conflict of interest issue be addressed at the council level or is a change in the Act going to be needed?

Mr. LOONEY. Well, it is obvious—I believe at the last hearing Congresswoman Cantwell polled the councils themselves and to date since the passage of the Act the question was what have you done to deal with conflicts of interest, and my recollection of having read that record was that there was only three councils that responded affirmatively that they had done something; with no addition to exactly what it was that they had done. And I am in no position to pass judgment on the merits of those three that were done.

As this act is reauthorized, I think really what we are talking about when we discuss the issue of the fishery management council system, we are not talking about the Act and the regulatory process, I think we are talking about, at least in my mind, very simply on that council, do fishermen who have active interests sit and make decisions or do those same people participate only by giving testimony to that body?

No one, including myself, is advocating that the input from industry be in any way discouraged. In fact, I think if you read our written testimony we are advocating just the second. My position very simply is those with economic direct interests or, for that matter, indirect interests belong where I am sitting today, in front of the panel, giving their opinion, not sitting up there making the decision.

Mrs. UNSOELD. Thank you. We could explore that a lot more, but I really do appreciate the comments.

On bycatch, it is a problem. How can it best be addressed?

Is it possible to do it through the Act?

Can councils do it?

Are we going to need to do something else?

I don't know who wants to jump into that, but go ahead.

Mr. EASLEY. Mr. Chairman, Congresswoman Unsoeld, I think it should be dealt with at a council level really because each fishery is different and its bycatch problems that it has are different. They aren't the same from fishery to fishery.

I participated in several fisheries over my lifetime, and none of them were the same, although they all had bycatch, in my opinion. And sometimes it is regulatory, sometimes it is market-driven, sometimes it is size-driven, and you need to do it on a fishery-by-fishery basis, and I think it has to be done at the council level.

Mrs. UNSOELD. Mr. Looney.

Mr. LOONEY. On bycatch, one thing we need is a clear definition of what is bycatch. There is a difference between waste in fishery and bycatch. Technically, at least to my knowledge in the North Pacific, when you are talking bycatch issues, you are really talking allocation issues. Everything is being managed within the ABC and the TAC.

It is a question out of that total allowable catch how much is dedicated to a bycatch, to bycatch issues and how much to a directed fishery. Before any significant progress can be made on that issue, I think we must have clear definitions of what those are and of what we mean when we say "bycatch", because not everybody is thinking the same thing.

Mrs. UNSOELD. Good point.

Mr. JENSEN. One of the things that I think is important is that the National Marine Fisheries Service should establish bycatch as a high priority. It has got to be a national objective.

We are going to get crucified over the years with bycatch and discards, and it has to be a national objective. It has to come from the government down to the councils so that it is put into effect because right now we are in an extremely embarrassing situation as an industry.

Ms. UNSOELD. Thank you.

Thank you, Mr. Chairman.

Mr. MANTON. The gentlelady's time has expired.

Following in the order of seniority, Mr. Andrews of Maine.

Mr. ANDREWS. Thank you, Mr. Chairman, let me pick up on a point that you were making in the last question that you cut yourself off from, and that is the issue of market-driven approaches, market-driven solutions. Many would suggest that it is the market that has driven the fisheries into the problems that we are facing right now to the point of extinction for some species, and I was fascinated by the idea of market-driven solutions, market-driven approaches that could perhaps eliminate red tape, use some of the market-driven incentives to do the right thing in terms of our fisheries. You mentioned that specifically, Mr. Jensen.

I would open it to anyone, including Mr. Jensen, if you could answer two questions: number one, are there additional market-driven approaches that we should be considering that have not been laid on the table at this point in time?

And, number two, Mr. Jensen specifically mentioned the ITQ system, and I wondered if you could address the issue of what happens to people in the industry who do not receive quotas?

How might we compensate them for their loss?

Mr. JENSEN. Well, I can start out. Let's talk about ITQs. ITQs, as we envision them, are transferable. They can be sold, transferred, et cetera.

We also envision that they will be taxable, so that there is tax money raised by the transfer quotas. If I have an ITQ and I sell it to somebody, obviously I made some money with it selling it and then the Federal Government would get taxes for it.

We would love to see that tax earmarked for fisheries to help support the ITQ program. That would be one way of funding it.

I think we should look at that seriously because that would be a good way of funding that program. I think one of the things that you have to look at is that, you know, we have limited entry schemes in the United States. I guess I shouldn't use the word "schemes", but we have the limited entry permits.

It has created wealth for some people, but it has stabilized some fisheries. We are talking about a point here, and anybody in this room that is in the bottomfish business has got to know that if we go to an ITQ program, you are going to have less fish available to you than you have had in the past. Because I can just bet that the total will be over 100 percent when it is all figured out, but I will tell you, if somebody came to me and said to me would I rather have \$50,000 a year for the next five years or I will give you 70 now but you might not have a job next year, I know damn well what I would take.

I think the fishermen should start to look at this, too. I am not using 50, I am just using that as a number in the sense that we have got to get some continuity into this system or we are going to be here every year sitting before this panel, other panels arguing amongst ourselves, et cetera, and I think an ITQ system, because we will catch the fish when we are going to market it, I am not going to catch it in January if I can't sell it until December, it is as simple as that.

You will get a lot more market driven and you will get more recovery out of that fish because you are going to take every piece of that flesh rather than just running the volume through because you know the gun is going to go off in 32 days. It changes the whole economics of the ball game, and I think we should definitely look at that.

Mr. LOONEY. On the question of market-driven decision making process, I think it can be expanded beyond just the scope of ITQs. One of the things we have to keep in mind with fisheries, and lest no one ever lose sight of it, we are in a global economy, and that as it exists today, almost universally, we are regulating to the lowest common denominator.

We are regulating inefficiency traditionally as what we cloak as traditional management tools. With the emergence of the former Soviet Union, their tremendous resources and et cetera that we need to consider the fact that we are—if we look at these solutions from a micro standpoint and micro economics, we may get done squabbling and look over our shoulder and find out there really is nothing left to fight about economically.

Mr. MANTON. The gentleman's time has expired. Our last questioner will be our hostess, Ms. Furse, with apologies to Ms. Cantwell and Mr. Hamburg. I am getting a signal from the back. I will try to make it up to you in Seattle.

Ms. FURSE. Thank you, Mr. Chairman.

First, I would like to ask if I could have unanimous consent to introduce Congressman Mike Kopetski's statement, another member from Oregon with a very thoughtful statement.

Mr. MANTON. Without objection, so ordered.

[The statement of Mr. Kopetski may be found at end of hearing.]

Ms. FURSE. Thank you, and also Congressman Young from Alaska. Thank you.

Mr. MANTON. Without objection.

[The statement of Mr. Young follows:]

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA, AND  
RANKING MINORITY MEMBER, SUBCOMMITTEE ON FISHERIES MANAGEMENT

Mr. Chairman, I think we should all thank our colleagues from Oregon and Washington for inviting us here today to get a look at issues affecting the fishing industry on the West Coast. It is always helpful for Members to see firsthand the problems that are faced by our fellow Americans who often can't come back to Washington, D.C.

Since the Committee will be meeting in Alaska in another couple of days to discuss the Magnuson Act, I will not comment on that topic here. However, I would like to say a few words about the Pacific salmon fisheries.

You will undoubtedly hear a great deal about the problems that beset Pacific salmon here in Oregon and across the river in the State of Washington. Salmon returning to the Columbia River and its drainage certainly face a number of obstacles. They are caught by fishermen, eaten by marine mammals, must swim over dams,

and must face threats to their habitat. Frankly, the only way we would be able to solve all of these problems would be to stop all fishing, shoot all the marine mammals, and evacuate all human beings from the Columbia River basin—just before we blew up the dams. However, that is not a realistic solution.

The only way we will be able to solve the problem is by working together. We can't do it by pointing fingers and casting blame. As has already been demonstrated in the district of our colleague from California, Mr. Hamburg, we can act jointly to help restore our rivers and our fisheries. I hope the witnesses will keep this in mind as we proceed with the hearing today.

Thank you.

Ms. FURSE. There are so many questions I would like to ask you, but I am going to direct this to Mr. Dulcich.

Mr. Dulcich, first of all, appreciate the specificity of your testimony. It was very, very helpful that you outlined it by section.

The nursery ground issue is one that I have not seen particularly mentioned elsewhere. I just want to ask you quickly, in your opinion how much will it take to identify the grounds?

What kind of protections will be necessary, in your opinion?

And also, do you think that there will be support for such protection from fisher groups in your opinion?

Mr. DULCICH. Congresswoman Furse, first of all, that is a three-part question, and I will take each piece. The grounds to be identified along the lower—my knowledge of the industry is the Lower 48, that is off the States of Washington, Oregon and California, so my remarks would be strictly in those areas.

I think currently there are areas that have been identified as spawning areas where these species (bottom fish) congregate and where fishermen are currently targeting upon specific species. I think we can identify 50 to 60 percent of them fairly readily, and with support of some other individuals I think we can identify almost all of the spawning areas.

On protection, addressing the protection issue, we feel we need to virtually eliminate fishing which is not going to be very well received within the fishing community during times of spawning. The stressed stocks, such as petrale sole, Dover species or deep water complex. What would be the support within the industry. If you take it by segment for someone that is a futurist and realizes the need for conservation, I think it would be well received from fishermen, and I speak for them (fishermen), too.

There is a lot of economic stress right now within our industry, and because of that we (the industry) are looking short-term, not long-term, and as a steward we feel our company needs to look long-term and take the economic difficulties that are going to definitely occur with something like this.

Ms. FURSE. Thank you. I do have other questions, but I will submit them for the record, particularly to Mr. Rasmussen, and I wanted to thank everybody for their wonderful testimony.

Thank you so much, Mr. Chairman.

Mr. MANTON. Thank you. We are sorry that we couldn't have about ten more minutes, but we are instructed that we have to get out. I see Colonel Sattler from the Marine Corps eyeing us in the back, so I will turn back the Chair to our Full Committee Chairman, Mr. Studds.

The statement of Mr. Spain will be submitted for the record.

[The statement of Mr. Spain may be found at end of hearing.]



Chairman STUDDS. (Presiding.) I just want to apologize to Mr. Hamburg and Ms. Cantwell. I guess you can tell it to the Marines. They pulled us out of here earlier than we thought.

All of you, our host and our hostesses from our all too brief visit in Portland, we thank you, we hope you are able to follow us to Seattle and Anchorage and other places. Do not under any circumstances follow us where we will ultimately end up, which is the other Washington. Thank you all very much.

We stand adjourned.

[Whereupon, at 12:20 p.m., the Committee was adjourned; and the following was submitted for the record:]

- Time limits should be applied to Department of Commerce review of regulatory amendments similar to the existing time limit placed on Secretarial consideration of fishery management plans and plan amendments.

- The Secretary and the councils should be required to choose the management alternative dictated by the weight of the evidence on the record. This provision should be part of Section 303 of the Act (required provisions of a fishery management plan) and should apply as a standard of judicial review.

- The Secretary and the councils should be required to consider a range of reasonable alternatives when addressing a perceived management problem. This proposed change is not meant to delay council action by requiring analysis of all conceivable management alternatives. This change is intended to require councils to analyze those alternatives that best address legitimate conservation and management concerns and not to dismiss viable management options.

- Individuals seeking to testify before a regional fishery management council should be required to sign a declaration that their testimony is being delivered under oath.

## 2. Promoting Rational Management of the North Pacific Fisheries.

Most U.S. fisheries are conducted under an open access system. Under open access, each fisherman seeks to catch as many fish as possible before the quota is reached. Crew safety is a concern for those engaged in this "race for the fish." Overcapitalization in the fisheries is another consequence of open access. Overcapitalization, which results in a lack of economic efficiency, exists when there is excess harvesting and/or processing capacity in the fisheries. Overcapitalization is a condition that is pervasive in U.S. fisheries.

Concerns about safety and overcapitalization alone ought to convince Congress of the need to promote more rational management systems, but there are other benefits, as well. Although fishery resources within the U.S. 200-mile zone in the Pacific Ocean are healthy, we can do more to ensure a sustainable yield in the fisheries. There are demonstrated conservation benefits from adopting a more rational management system. For example, open access rewards those who fish fastest, creating a disincentive to reduce bycatch of non-target species. Also, an open access regulatory system provides an economic incentive to discard target species under certain conditions. To reduce waste in the fisheries and to avoid social and economic disruptions, the following alternatives are suggested to promote rational management.

WASHINGTON STATE FISHING INDUSTRY'S  
RECOMMENDATIONS ON REAUTHORIZATION OF  
THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Members of the Washington State fishing industry, including harvesters and processors participating in the halibut, crab, groundfish and salmon fisheries of the North Pacific and the West Coast, are seeking changes in the Magnuson Fishery Conservation and Management Act (Magnuson Act). The undersigned trade associations, which represent participants in the fisheries identified above, suggest four issue areas upon which Congress should focus during the reauthorization process.

The four issue areas are 1) the regional fishery management council regulatory process, 2) the development of a rational fishery management scheme for the North Pacific, 3) the composition of regional fishery management councils, and 4) ethics issues pertaining to council members. Within each of the four areas, we offer a variety of alternatives to address existing problems and to improve conservation and management of U.S. fishery resources.

We would also like to take this opportunity to encourage Congress to focus on the issues of bycatch and discards. Specifically, there should be a national policy regarding the impact of bycatch of non-target species on fish populations and the marine ecosystem, and adequate support for research in the area of gear selectivity, including the development of bycatch reducing technologies. In addition, there should be an emphasis on management strategies that include incentives for fishermen to increase gear selectivity or use more selective methods of fishing. Finally, Congress should also examine practicable approaches for ensuring maximum utilization of commercially marketable species consistent with conservation goals.

#### 1. Fishery Management Regulatory Process.

The following alternatives seek to make regional fishery management councils more accountable and to improve the fishery management regulatory process.

- Create a national Fishery Management Review Board as a fact-finding panel empowered to review certain council actions. This recommendation echoes a proposal put forth by the National Academy of Sciences and seeks to reduce the politicization of fishery management actions. We recommend that the review board's actions occur concurrently with the existing 95-day review period for fishery management plans and plan amendments.

- Add a Magnuson Act national standard stating that, "Conservation and management measures shall promote safety of life and property at sea."

- Fishing industry support for amending the Magnuson Act to allow the Secretary of Commerce to assess fishing fees is conditional. Fishing fees--

- must be spent on federal fishery programs in the region in which the fees were collected,

- can be used to administer limited access programs,

- shall supplement, not replace, existing funding levels.

Also, there should be a sunset date for any provision allowing for the collection of fees to ensure a full opportunity to review the effects of a fee program, and Congress should require annual reports from the Commerce Department to ensure that fees are being spent for the purposes set out above.

- Amend Magnuson Act National Standard No. 5 to state that management measures should, "include the avoidance, or reduction and elimination, of excess fishing capacity", and should "minimize waste, including the bycatch of non-target species and discards of target species."

- Congress should direct the Secretary of Commerce to establish an effective vessel incentive program (VIP) for purposes of managing and reducing bycatch in the North Pacific fisheries, subject to overall bycatch limits. A VIP program should be required to be in place within six months of the date of enactment of the reauthorization bill.

- The Act should include a provision specifying the percentage or dollar value (by species) of federal resources transferred to the Community Development Quota (CDQ) program and state the duration of the program.

### 3. Composition of the Regional Fishery Management Councils.

Congress has often amended the Magnuson Act to address concerns that the Act has not achieved its goal of attaining "a fair and balanced apportionment" of participants in the fisheries on the councils. With respect to achieving balanced representation on the North Pacific Fishery Management Council, the task is complicated by a provision in the Act limiting Washington State residents to two of the seven seats on the North Pacific Council reserved for industry participants and others knowledgeable about fisheries.

Since Washington State fishermen account for 70 percent of the harvest in federal waters managed by the North Pacific Council, there is an inherent contradiction in the statute that precludes balanced representation on the North Pacific Council for Washington State fishermen.

The following range of alternatives is suggested to broaden participation of affected users on the fishery management councils, and to encourage councils to act as conflict resolution bodies.

- Require a two-thirds majority vote on council actions that result in significant reallocations between industry sectors.

- Require a two-thirds majority vote on North Pacific and Pacific council actions that delegate to any entity, other than a council, primary management of a fishery predominantly occurring in the U.S. 200-mile zone.

- Require that the chairperson of the North Pacific Council be elected by Council members from among the individuals serving as non-voting members of the Council.

- Designate one voting seat on the Pacific Fishery Management Council for a Native American representative; the existing seat occupied by a tribal fishing representative would revert to an at-large seat as currently designated in the Act.

#### 4. Ethics Issues and the Regional Fishery Management Councils.

One purpose of the Magnuson Act is to involve participants in the fisheries in the decisionmaking process as federal appointees to the regional fishery management councils. Council members, however, are exempt from federal statutes that govern the conduct of federal officials faced with conflicts of interest during performance of their duties. Serious and legitimate questions have been raised about whether the existing federal requirements and standards are sufficient to maintain propriety in the management process.

- Council members, prior to a council vote, should be required to state on the record any interests, financial or otherwise, affected by the council action under consideration.

- Also, council members should be required to provide more detailed disclosure of interests. Interests should be defined to include direct and indirect financial involvement. For example, fishing industry members should be required to disclose what species they harvest/process/market, and what gear type is employed (or involved). Trade association representatives, those representing views of sport fishing, consumer and environmental organizations, and those working for individual companies should disclose similar information about their employers or clients.

- A report detailing the interests, financial and otherwise, of council members supporting a proposed rule should be a part of the internal decisionmaking memoranda prepared for consideration of Commerce Department officials.

The Washington State-based organizations listed below have achieved a consensus view on a number of critical issues that Congress needs to address during the Magnuson Act reauthorization process. This is not a comprehensive list of issues of concern to the parties listed below; during the reauthorization process, each organization will likely provide additional views to Congress.

Alaska Crab Coalition

American Factory Trawler Association

American High Seas Fisheries Association

Deep Sea Fishermen's Union

Fishing Vessel Owners Association

Mid Waters Trawlers Cooperative

North Pacific Longline Association

8/93

STATEMENT OF CONGRESSMAN RON WYDEN  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
PORTLAND, OREGON  
8/10/93

Thank you Chairman Studds for allowing me the opportunity to speak before the Committee.

The salmon is one of the region's most potent cultural symbols, as well as a critical economic resource. Tragically, this beautiful fish is now among the region's most vulnerable species.

As salmon runs continue to be listed under the Endangered Species Act, the region is required to give up its most precious resource, water, to meet the demands of declining salmon populations. As a result, the entire region is restricted economically.

This situation is similar to the recent controversy surrounding the spotted owl where short sighted natural resource policy and planning resulted in the strangulation of an age old industry and the tragic loss of many important communities.

Even more so than the spotted owl, the salmon, and the river water which is its sustenance is central to the region. If more salmon are listed the restrictions placed on this region will increase, and everyone in this region who has taken something from the river will have to give something back.

The gill-net and commercial fisherman may have to take less fish from the river and the grain shipper may face an annual temporary shutdown of barge traffic that links the region to important foreign markets. The industries dependant on the existing source of inexpensive hydro-electricity will have to pay more, and the farmers in eastern Oregon and Washington may have to pay more to irrigate their crops.

It is in the best interest of this region to find a solution to this impending crisis, to avoid the perils of the train wreck which we encountered with the spotted owl.

At this critical point in Northwest resource management we must make certain that participating government agencies are doing all that they can. Emphasis must be placed on the coordination of federal and state efforts to ensure that the work of one agency does not un-do the work of another.

It is possible to point to many different areas of the salmon debate which would benefit from better government coordination. However, today I would like to focus on one piece of the multi-faceted salmon debate, which I believe deserves concerted attention: hatcheries.

Three years ago at the salmon summit we discussed the issue of hatcheries, and at that time it was agreed that this issue required careful review.

Well, I am here today to say that there is still plenty of room for improvement. The problems we have faced for decades still exist today; hatchery production increases while irreplaceable wild stocks are dwindling. And still there is no central agenda to coordinate government policy to address these demands.

For too long many in our region have viewed artificial propagation --hatcheries-- as the end-all solution to declining salmon and steelhead populations. Hatcheries have been used as a means of staying one step ahead of ecological degradation.

It has been known throughout the last several decades that maintaining wild populations is important to the long-term survival of a species.

The release of large numbers of hatchery-raised fish genetically distinct from wild stocks combined with the impacts of mixed-stock fisheries adversely affects the genetic integrity and ecological diversity of natural populations. The result is the decline of the wild populations, and the eventual decline of the species.

This is not to say that hatcheries can not and will not play a productive role in the restoration of salmon and steelhead populations. However, there needs to be close management of the hatchery system to ensure its environmental sensitivity.

One thing appears certain. There is a lack of one central hatchery management agenda, and as a consequence government hatchery productions are uncoordinated, and often ineffective. Currently, federal hatchery management policies are different from state policies and state hatchery policies differ from those practiced in other states and so on.

One example of this is that some hatcheries produce coho which return to the river at the same time as the endangered Snake River fall chinook. Unknowingly, recreational and commercial fishermen catch the endangered fall chinook, while fishing for the coho. As a result, endangered fish are needlessly and unknowingly killed.

Another example is that some hatcheries release large numbers of steelhead trout at a time when they can prey on endangered chinook smolt. This also contributes to the decline of the species.

There are projects underway, such as the Integrated Hatchery Operation Team (IHOT), which is working to create an agenda to coordinate hatchery management in the Columbia River Basin. Unfortunately, because the coordination of government hatchery policy has not been established as a priority this program has



fallen more than a year behind schedule. I would like to see it become a priority.

Better coordination of government hatchery programs in the Columbia River basin will help in the effort to avoid further listings. Moreover, the conclusions of the IHOT and other projects can be used as examples to guide the management decisions of other government hatchery operations.

This is just one part of the big picture which needs to be addressed. There are many more which also need attention.

Among them is habitat restoration and protection. This year I worked with Congressman Dicks, Congresswoman Unsoeld, and other members of the Northwest delegation to redirect funds from the Forest Service road building budget to watershed restoration activities on the west side forests of Washington, Oregon and northern California. I am pleased to announce that \$30 million dollars was redirected for this purpose.

This was an effort to promote balanced federal policies based on the needs of the entire ecosystem, and to create a new relationship between forests and fish habitats. It must be understood that the protection of these critical habitats is essential to the survival of our precious salmon and steelhead runs.

As I conclude, I should point out that there is a growing need in the Northwest for objective scientific data concerning salmon populations levels. The last comprehensive inventories were conducted in the late 1930's and early 1940's, and this dated information is still being relied upon today.

And finally, Chairman Studds and Oregon's own Congresswoman Elizabeth Furse deserve praise for their efforts to establish the National Biological Survey. I would hope that the National Biological Survey would consider this region a priority, and work expeditiously to develop sound data which will help guide federal policies.

Thank you for your time and consideration.

STATEMENT OF  
JOHN LOWE, REGIONAL FORESTER  
PACIFIC NORTHWEST REGION  
FOREST SERVICE  
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the  
Committee on Merchant Marines and Fisheries

United States House of Representatives

Concerning The Decline of Pacific Salmon Stocks

August 10, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to offer our views on the conditions that have caused the decline of Pacific salmon stocks. I am accompanied today by Dr. James Sedell, Research Scientist from our Forest Science Laboratory in Corvallis, Oregon, and Gordon Haugen, Columbia Basin/Pacfish Coordinator, who works as a special assistant to the Regional Foresters in Regions 1, 4, 5, 6, and 10.

The Forest Service has an important role to play in the protection and recovery of Pacific salmonids. The National Forest System contains approximately one-half of the remaining freshwater salmonid spawning and rearing habitat in the lower 48 states, and about one-quarter of such habitat in Alaska. Habitat conditions on National Forest System lands are an important element in conserving many of the Pacific anadromous fish stocks. Forest Service efforts to manage this habitat requires commitment within five western Regions, encompassing

the States of California, Oregon, Washington, Idaho, and Alaska.

New information has defined the anadromous fish issue.

In 1991, the American Fisheries Society (AFS) identified 214 stocks of salmon, steelhead, and sea-run cutthroat trout from California, Oregon, Washington, and Idaho as "at-risk" of extinction. Nine of those stocks, representing four species, are currently listed under the Endangered Species Act, and others have been designated as sensitive species by the Forest Service. Approximately 170 "at-risk" stocks identified by the AFS report are found on National Forests. Of those, 76 judged by AFS to be at "high risk" of extinction, but not federally listed, occur in 51 stream systems on 16 National Forests. Recent information, developed by our own Forest Service research, has shown that stream systems in many watersheds throughout the Pacific Northwest have been simplified. To complete our understanding of the status of Pacific anadromous fish stocks, a review similar to the one published by the AFS is needed for Alaska salmon, steelhead, and sea-run cutthroat stocks. Recent information suggests that coho and chum salmon, and steelhead stocks in Alaska probably are declining.

**BY WHAT AUTHORITY IS EACH AGENCY HELD ACCOUNTABLE FOR PACIFIC SALMON RECOVERY? HOW ARE ACTIVITIES OF YOUR AGENCY AFFECTING THE RECOVERY OF SALMON?**

The Forest Service (FS), under the authority of the National Forest Management Act (NFMA) for nonlisted stocks, and the Endangered Species Act (ESA) for listed stocks, is responsible for the management of anadromous fish habitat on 34 National Forests (NF's) in five western Regions. The challenge for the FS is to manage these habitats with an ecosystem perspective for all uses, while ensuring the protection of the basic soil, water and vegetation resources that are critical for the sound stewardship of fish habitat and other resources. Historically, land-use activities on both public and private lands throughout the range of Pacific salmon, have affected watershed conditions and associated anadromous fish habitat. Some of these activities were executed with the best science available at that time. An example, in the late 50's and early 60's, was the removal of debris from streams--a practice carried out by both fisheries and land management agencies to ensure un-impeded movement of anadromous fish within streams. At that time, it was deemed both beneficial and proper. About 12 years ago, we recognized that this management technique was inappropriate and had contributed to the decline of Pacific salmon stocks. We have, with other Federal and State agencies, turned the corner on this management concern, by establishing guidelines for large organic debris in anadromous fish habitat on the NFS lands. This is just one example of how scientific

understanding has changed through the years--thereby pointing out the need for continued evaluation of our programs. We are committed to continuing improvement of our management, consistent with new information and the best science, to ensure long-term stability of the resources under our jurisdiction.

#### POSITIVE ACTION RESPONSES

The Forest Service has taken several actions which, when fully implemented, will help lead to the recovery of Pacific salmon.

1. The Columbia River Basin (CRB) Anadromous Fish Habitat Management Policy and Implementation Guide was signed in January 1991 by the three Regional Foresters in Regions 1, 4, and 6. The Policy clearly articulates Forest Service intent to proactively manage anadromous fish habitat in the Columbia River Basin and to coordinate and cooperate with other Federal, State, and tribal entities in fishery management efforts.

The Implementation Guide has 10 specific objectives. The primary objectives which directly address resource concerns are:

1. To establish anadromous fish production goals by Forest watershed.
2. Describe "Desired Future Conditions" of riparian aquatic habitat to meet the production goals.
3. Identify consistent habitat inventory procedures.

4. Develop a monitoring strategy, including a cumulative effects analysis to ensure accountability of prescribed actions.

The remaining objectives deal with public involvement, coordination with other agencies, and the development of an internal basin oversight group.

2. The Forest Service, in cooperation with the Bureau of Land Management (BLM), is developing a Pacific Salmon and Steelhead Habitat Management Strategy (PACFISH, see enclosure).

The PACFISH Strategy is a comprehensive ecosystems approach to management of watersheds and Pacific anadromous fish habitats. PACFISH is being developed by technical specialists and line managers from the BLM, National Forest System, and research scientists from our Forest Service Research organization. The Strategy is building upon the solid knowledge of an assessment that quantified current habitat conditions. It provides an understanding of the elements of "good" habitat condition, identifies key watersheds, provides the knowledge of how to manage watersheds to maintain "good" habitat where it now occurs, and describes how to achieve "good" habitat conditions in areas that currently are degraded. It could apply to anadromous fish habitat regardless of location.

**HOW IS YOUR AGENCY COORDINATING RESTORATION EFFORTS WITH OTHER AGENCIES? IS THERE AN OVERALL STRATEGY FOR RESTORATION? IS YOUR AGENCY WORKING WITH OTHER AGENCIES AND TRIBES TO IMPLEMENT COAST-WIDE RESTORATION EFFORTS?**

The FS has been a full partner with other Federal and State agencies, responsible for the management of anadromous fish resources throughout the range of Pacific salmon. We have worked with, and have received funding through, the Northwest Power Planning Council (NWPPC) for habitat enhancement programs on NF's throughout the Columbia River Basin (CRB). We were an active participant in the 1990-91 Salmon Summit Conference sponsored by Senator Hatfield. At the conclusion of that conference, we made commitments in five areas and have made good progress in four of those areas.

**(1) Identify irrigation diversions on National Forests that require screening.** We have identified these diversions that require screening by permittees and have transmitted a listing of the diversions to the Columbia River Basin Fish and Wildlife Authority. We also have advised the permittees that screening will become a requirement of the special use permit on all diversions that meet criteria established by the respective states.

**(2) Identify lands appropriate for acquisition.** We have identified lands appropriate for acquisition through exchange or purchase via the Land and Water Conservation Fund. We have also provided this list of lands to the Northwest Power Planning Council.

**(3) Improve minerals management.** The Agency has accelerated its administration of minerals management activities.

**(4) Improve range management and update all Allotment Management Plans (AMPs) by Fiscal Year 1996.** Range management and administration of grazing allotments has been increased. Unfortunately, we have been unable to maintain our anticipated schedule of AMP

updates, and do not expect that all AMPs will be updated by Fiscal Year 1996.

(5) **Implement the Columbia River Basin Anadromous Fish Habitat Management Policy and Implementation Guide.** Implementation has been proceeding. Progress to date on the four primary objectives of the Implementation Guide has been substantial, although significant work remains to be done. Forests have completed the delineation of Forest watersheds. This year, Fiscal Year 1993, Forests are concentrating on describing the Desired Future Conditions for the watersheds, and establishing consistent monitoring programs. Progress on the remaining objectives, regarding public involvement, coordination with other agencies, and the development of an internal basin oversight group, also has been good.

The Forest Service has, through the CRB anadromous fish program, adopted the NWPPC overall strategy for the restoration of anadromous fish within the Columbia River Basin to meet the goal of doubling the number of fish returning to spawn.

Outside the Columbia River Basin, there are numerous other cooperative restoration efforts in which the Forest Service is an active participant. In the State of Washington, we are working with the U.S. Fish and Wildlife Service (FWS), State and tribal agencies, conservation organizations, and industry groups to restore watershed conditions in the Puget Sound area. In northern California, we are working closely with the FWS, the California Department of Fish and Game, Tribes and private groups in restoration efforts within the Klamath River drainage. In Oregon, we are involved in a number of community based restoration efforts, such as those in the Rogue River drainage.



In addition to these specific examples, there are a number of relevant efforts being undertaken at the national level to address restoration over the entire natural range of Pacific salmon and steelhead.

In 1992, the Forest Service initiated development of the PACFISH strategy to manage National Forest System watersheds to provide habitat conditions that would contribute to the recovery and sustained natural production of Pacific salmon and steelhead. Earlier this year, the Bureau of Land Management joined with us as a full partner in development of this strategy. This effort is nearing completion and will provide a consistent approach to restoration of Pacific salmon and steelhead habitats on lands managed by the two agencies.

The strategy has been developed in partnership with the research community and was drawn on extensively to develop recommendations outlined in the Scientific Analysis Team (SAT) Report, and the President's Forest Plan.

Recently, the Forest Service has participated with other Federal agencies in discussions of how Federal, State, and Tribal efforts can be more effectively coordinated to comprehensively address all the factors that limit recovery of Pacific salmon and steelhead runs. We believe such a comprehensive, coordinated effort is essential to the

success of efforts to re-establish the productivity of these fisheries. We will support, and actively participate--as habitat managers--in any forum that evolves from current discussion.

As noted by the previous examples, the FS has been and will continue to be an active participant with the States, Tribes, and other Federal agencies to implement restoration activities throughout the range of anadromous salmonids.

#### **WHAT OBSTACLES STAND IN THE WAY OF A SUCCESSFUL COAST-WIDE STRATEGY?**

Habitat management on a coastwide basis will be difficult in view of the mixed ownership patterns in coastal river basins, i.e., State, private, and Federal. The major challenge will be the management of private lands within the basins, and the restoration of estuaries that have been affected by basin land use activities, and managing for fish while meeting the other needs of affected communities and sectors. In addition, nonhabitat factors such as the excessive harvesting of fish and hatchery interactions must be effectively addressed for the restoration strategy to be successful.

**WHAT ELEMENTS ARE A NECESSARY PART OF A COAST-WIDE STRATEGY?**

An overall watershed management plan which is implementable, and which embraces all ownerships and sources of fish mortality is essential if fresh water habitats and estuaries are to be managed and/or restored to a level of productivity to meet anadromous fish production goals. This will require State, Federal, international, and Tribal cooperation as well as the enforcement of State, Federal, international land use and water management policy and laws.

Necessary elements of an effective habitat management plan include:

- o measurable objectives,
- o identification of a network of refugia--or key watersheds--to protect remaining good quality habitats and contribute to conservation of "at-risk" stocks,
- o delineation of areas within watersheds that are most important in terms of regulating water quantity/quality and input of sediment, large wood/boulders and nutrients,
- o standards for implementation of management activities within anadromous fish watersheds,
- o watershed analysis to provide drainage specific information to adjust management direction,
- o active restoration of upland, riparian and in channel areas to accelerate ecological recovery, and
- o monitoring of trends and mechanisms for evaluating success and making mid-course corrections as necessary.

**WHAT PROGRESS, IF ANY, HAS BEEN MADE TOWARD RESTORATION AND RECOVERY?**

Forest Service development of an anadromous fish policy for the CRB, implementation of salmon summit habitat measures, and participation in cooperative restoration efforts such as the Klamath and Trinity Rivers in northern California and the Watershed Alliance in the Puget Sound Region have all made significant positive contributions to restoration and recovery. In addition, we are cooperating with the Bureau of Land Management in development of the Pacific salmon and steelhead management strategy, which will address all BLM and FS administered lands which support anadromous fish populations. When these strategies are fully implemented, we will have set in place a program which will lead to the maintenance of existing good fish habitat, and the restoration of degraded habitat to a level that will support, but will not guarantee, viable populations of Pacific salmon.

**FOR THOSE SPECIES LISTED UNDER ESA, PLEASE DESCRIBE YOUR AGENCY'S IMPLEMENTATION OF SECTION 7 OF THE ENDANGERED SPECIES ACT.**

The FS has developed, in consultation with the BLM and the NMFS, a procedure for conducting consultation for those stocks and lands administered in the Snake River Basin (see enclosure).

We have delineated 52 watersheds in the Snake River Basin for which a schedule has been developed for completing consultation

on all activities that may affect the listed salmon stocks. Consultation for these basins is anticipated to be concluded by the Spring of 1994. The general philosophy under which the FS is carrying out consultation is that we have made an initial determination on the effects of all ongoing and proposed actions. Those ongoing actions which were determined to be "no effect," or "not likely to adversely affect" are being continued, provided no irreversible or irretrievable commitment of resources are made. Any actions that were determined to "likely to adversely affect" were either modified to reduce the determination to "not likely to adversely affect," or suspended. All new actions proposed by the FS require that consultation be concluded prior to the action being taken. The FS has requested formal consultation by NMFS for all "may affect" actions in the Snake River Basin.

**WILL THE PRESIDENT'S FOREST MANAGEMENT PLAN FOR THE PACIFIC NORTHWEST, ANNOUNCED JULY 1, IMPACT THE RESTORATION OF SALMON POPULATIONS, AND IF SO, HOW?**

The Report of the Forest Ecosystem Management Assessment Team, Chapter 5, discusses at-risk fish species and stocks in relationship to 10 options developed to reverse the trend of habitat degradation on Federal lands, and begin a process of recovery of the aquatic ecosystems on those lands. The scientists concluded that management of Federal habitat, in compliance with the preferred alternative (Option 9) does not directly correspond to a population viability of all the effected species. This is due in part to the impacts or

cumulative effects on species viability from non-Federal activities, and to activities in other habitat sectors where the species might spend portions of their life cycle. Furthermore, with anadromous fish, there is limited science available to establish direct relationships between land management actions and population viability. In considering the effects of any Federal land management option on aquatic resources, two key points are important: (1) there are potentially other factors such as over-utilization, disease, artificial propagation practices, and other habitat impacts such as hydropower and irrigation developments, that have continued to contribute to population declines; and (2) a plan for managing Federal lands will not solve problems existing on non-Federal land.

We are optimistic that the President's plan will contribute significantly toward improved habitat conditions and recovery of stocks "at risk." However, ecosystems management cannot be successful without participation of all Federal and non-Federal landowners, Tribes, and agencies that affect a watershed. The Federal agencies must foster a partnership for ecosystems management with these entities, in order to ensure conservation and prevent further degradation of the Region's aquatic resources.

**SUMMARY**

The Forest Service is continuing its efforts to provide habitat capable of supporting the recovery of Pacific salmon stocks. Based on information from one of the strongest research units in the world, we know what is needed to provide good fisheries habitat, and how to develop watershed management programs based on the principles of ecosystems management. Even though we have the skills within the Agency to begin developing and implementing these management programs, we may not have the resources to achieve habitat restoration in the desired timeframe. Finally, it must be recognized that habitat problems are only one element contributing to the decline of Pacific anadromous fish stocks. Impacts associated with hydroelectric development and operations, fish hatcheries, and fish harvest, also will have to be addressed, to provide for the conservation of the vulnerable stocks. The Forest Service is committed and ready to do its part.

This concludes my testimony. Dr. Sedell, Gordon Haugen, and I will be happy to answer any questions you may have.

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# PACFISH STRATEGY

## Executive Summary

Revised May 1, 1993

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### Introduction

The purpose of this executive summary is to provide an overview of the background, issues and current status of the Pacific salmon and steelhead management strategy of the USDA Forest Service (Forest Service) and USDI Bureau of Land Management (BLM). Updates to this briefing will be provided periodically.

Over the past several years, significant new research information about the status of Pacific salmon and steelhead stocks, current habitat conditions, and habitat requirements has become available. This new information makes it necessary for the Forest Service and BLM to take immediate and long-term actions to assure proper management of anadromous fish habitat in Alaska, California, Idaho, Oregon and Washington. Changes in management guidance will affect about 75% of the Ranger Districts on 34 National Forests in five Forest Service Regions and 29 Area Offices on 16 Districts in four BLM State Offices.

### Background

Pacific anadromous salmonids (including salmon, steelhead and sea-run cutthroat trout, and dolly varden) occur naturally from southern California northward to the Arctic Ocean. These fish are comprised of a large number of stocks, or populations that originate from specific watersheds during specific times of year as juveniles, migrate to the ocean, and generally return to reproduce in their natal streams at the same time of year they were spawned. In many areas of the West Coast, naturally reproducing stocks of Pacific salmon, steelhead and sea-run cutthroat trout are at risk of extinction. Of the more than 400 stocks from California, Idaho, Oregon, and Washington recently evaluated by the American Fisheries Society (AFS), 214 were considered to be at "moderate" or "high" risk of extinction or of "special concern," 106 were extinct, and about 120 were considered secure.

About 134 "at risk" stocks identified by the AFS report are found on National Forests and 109 are found on Public Lands administered by the BLM. Recent information suggests that coho and chum salmon, and steelhead stocks in Alaska probably are declining also. To more accurately characterize the situation in Alaska, Forest Service researchers began an investigation in 1992 that is due to be completed in late spring 1993 to identify the unique stocks of anadromous fish on National Forests in Alaska. The Alaska Chapter of the AFS has undertaken a review of the status of anadromous fish throughout the state of Alaska and in 1994 expects to publish a report on stocks at risk in Alaska.



Reasons for the decline of the Pacific anadromous salmonids vary by species and geographic area. The depressed status of the 214 stocks reflects the interaction of inherently variable environmental conditions, such as oceanic productivity and weather patterns, and a variety of management activities. In general, stock survival is threatened by some combination of hydroelectric development and operation, fish harvest, fish hatchery influences on disease and genetic fitness, and fish habitat conditions. These management activities sometimes are referred to as the "four H's."

- o **Hydroelectric**, flood control, and irrigation dams have reduced fish production in many drainages throughout the range of the Pacific salmon, steelhead, and sea-run cutthroat trout. This is especially true in the San Joaquin and Sacramento River Valleys of central California, and the Columbia River Basin of Idaho, Oregon and Washington. Recovery of as many as 20% to 40% of the stocks identified by AFS as "at risk" is limited primarily by dam operations. The problem of hydroelectric development and operations is particularly acute in the Columbia River Basin, where: (a) more than 30% of the salmon, steelhead and sea-run cutthroat trout's historic range has been blocked by dams without fish passage facilities, (b) adult fish have difficulty in locating and negotiating past dams where ladders have been installed, (c) direct mortality of juvenile fish as a result of passing through power turbines is estimated at 12-20% per dam, and (d) mortality of juvenile fish has increased due to an approximately four-fold increase in downstream travel time (from 7-9 days to nearly 4 weeks) as a result of turning all but about 50 miles of the Columbia River into a series of placid lakes. The demise of a large majority of the extinct stocks is attributable to dam construction and operation.
- o **Harvest** of Pacific salmon, steelhead, and sea-run cutthroat trout occurs in a variety of sport, commercial, and subsistence fisheries. Because small naturally spawning fish stocks mix in the ocean with abundant hatchery stocks, management for a "maximum sustained yield" can result in overharvest of some stocks, appropriate harvest of some, and underharvest of others. Further confounding the issue is the fact that much of the commercial harvest occurs outside the national waters of the U.S. and of Canada, and much of the subsistence harvest is guaranteed under treaty or given special priority by law. As a result, complex jurisdictional authorities must grapple with allocating a "fair share" of an ever-dwindling resource among various nations, states, and tribes.
- o **Hatcheries** were built to be a part of the solution to declining populations of salmonids. However, many have become part of the problem and some have had a subtle, but adverse impact. Traditional hatchery practices have contributed to the decline, or may limit recovery, of 104 of the 214 stocks identified by AFS as "at risk." Hybridization of hatchery stock with wild salmonids can reduce the genetic fitness of the wild stock by affecting run timing and life history characteristics important to long-term viability. Competition between juvenile wild salmon, steelhead, and sea-run cutthroat trout and juvenile hatchery fish (that typically are larger because of hatchery feeding and/or time of hatching, and are released in large numbers) can be overwhelming. Further, crowded rearing conditions, warmer water, and greater concentrations of fish waste in many hatcheries can increase the incidence of disease among hatchery fish that can be transmitted to naturally-reproducing fish. Genetic contamination of the remaining lower Columbia River coho population by hatchery fish, and the resulting extinction of "wild" genes.

was one of the primary reasons cited by the National Marine Fisheries Service in their decision that listing the stock was not warranted.

- o **Habitat** is an very important component of salmonid production. In fact, declining habitat condition is the single factor affecting nearly all of the stocks at risk. Degradation of spawning and rearing habitat has occurred on all land ownerships throughout the range of Pacific anadromous fish stocks. Detrimental changes in habitat condition include reduction in water quality (as measured by increases in temperature, sedimentation, changes in nutrient levels and water chemistry, and the presence of toxic substances), changes in water quantity and/or timing of water flow, and reduction in habitat complexity (as indicated in loss of deep pools, reduction in amounts of large woody debris, and changes in width:depth ratios and bank angles).

The Forest Service and BLM have an important role to play in the management of watersheds and fish habitat in Alaska, California, Idaho, Oregon, and Washington. The watersheds on National Forests encompass approximately 50% of the remaining freshwater anadromous fish spawning and rearing habitat in the lower 48 states and about 25% of such habitat in Alaska. Public Lands managed by the BLM include 13,200 stream miles in the lower 48 states and 133,000 miles in Alaska that provide anadromous fish spawning and rearing habitat.

For those stocks affected primarily by habitat factors, the management of watersheds to ensure good fish habitat on National Forests and Public Lands is important. Management of these lands also can play an important role in moderating the rate of decline for those stocks affected primarily by hydroelectric development and operations, hatcheries, and fish harvest, and can provide a buffer against environmental extremes. Of the 134 "at risk" stocks identified by the 1991 AFS report that are found on National Forests in the lower 48 states and the 109 "at risk" stocks that are found on BLM administered Public Lands, approximately 23% are affected primarily by hydroelectric development and operation. For the remaining stocks that are limited primarily by other factors (habitat, harvest, hatcheries), poor habitat condition most often is the primary cause of decline or impediment to recovery.

### **PACFISH Strategy Framework**

The 1991 AFS report, coupled with the November 1991 listing of the Snake River sockeye salmon as endangered and the April 1992 listing of the Snake River spring/summer and fall chinook salmon as threatened, served as a wake-up call for the Forest Service, BLM, and others to provide more sensitive management of Pacific anadromous fish and their habitat. In an effort to address the issue of declining fish stocks in the Alaska, California, Idaho, Oregon and Washington, the Forest Service initiated a team effort in early spring 1992 to undertake an assessment and develop a management strategy that addresses the habitat needs of all Pacific anadromous "at risk" stocks on National Forests (see December 1992 Informational Report). During this same time, the BLM began revising its 1988 "Anadromous Fish Habitat on Public Lands" strategic plan. In March 1993, the Forest Service and the BLM announced their commitment to develop a common strategy for management of Pacific salmon and steelhead habitats and

associated watersheds on Forest Service and BLM administered lands in the West. This comprehensive strategy has become known as "PACFISH."

To facilitate a strong linkage between management and research, the PACFISH effort is staffed with technical specialists and managers from the Forest Service National Forest System and the BLM, and research scientists from the Forest Service research organization. The organizational framework for the PACFISH effort includes three components:

- **Washington Office Policy Group** - Provides overall direction for development of the strategy. This group is led by USDA-FS Associate Deputy Chiefs Dave Unger, National Forest System, and Eldon Ross, Research, and USDI-BLM Deputy Assistant Director Kemp Conn, Land and Renewable Resources. Members of the group include Washington Office Staff Directors from the Forest Service and Washington Office Division Chiefs from the BLM. Ad hoc members include representatives from the Department of Agriculture Office of General Counsel and the Department of Interior Office of the Solicitor.
- **Washington Office Work Group** - Established to work with the Field Team to develop the strategy for managing salmon and steelhead habitats on Forest Service and BLM administered lands. This group is led by Forest Service Assistant Director for Wildlife and Fisheries Phil Janik, Pacific Northwest Research Station Aquatic/Land Interactions Program Team Leader Jim Sedell, BLM Science Advisor Jack Williams, and BLM Rangeland Resources Branch Chief Glen Secrest. Core members include representatives with expertise in fisheries, economics, public affairs, watershed management, land management planning, and range management. Additional representatives with other expertise serve ad hoc as needed.
- **Inter-regional Field Team** - Established to provide information and work with the Washington Office Work Group in the development of the strategy. This team is led by Forest Service Deputy Regional Forester Bob Joslin and Pacific Northwest Research Station Aquatic/Land Interactions Program Project Leader Fred Everest, and BLM Deputy State Directors for Resources Elaine Zielinski (OR/WA) and Dick Bastin (ID). Members include representatives from each of the three Forest Service Research Stations (PSW, PNW, INT) and five Regions (1, 4, 5, 6, 10), and each of the four BLM State Offices (CA, ID, OR/WA, AK) responsible for management of Pacific anadromous fish habitat. Forest Service and BLM Anadromous Fisheries Coordinators, Gordon Haugen and Bob House, assist with Field Team activities.

## Current Habitat Conditions Were Assessed

As part of the PACFISH assessment, Forest Service research scientists, working with fisheries biologists and watershed specialists on National Forests with Pacific anadromous fish habitat, have characterized current habitat conditions in many watersheds on National Forests and other lands in Alaska, California, Idaho, Oregon and Washington. Generally, these habitats have 30% to 70% fewer large, deep pools, more fine sediments in spawning gravels, and greater disturbance of riparian vegetation than is acceptable and have experienced a reduction in fish habitat capability. These downward trends in

habitat conditions represent the cumulative effects, across all ownerships, of past and present land management activities. For example:

- o **Coastal Oregon** streams on west-side forested lands have been degraded. The amount of bedrock bottom exposed has gone from 30% to 80-90%. Pool-riffle ratios have gone from about 50:50 to 20:80 or 10:90 based on Oregon Game Commission surveys in 1960 and Forest Service surveys in the 1970's. The loss of 50% of deep pools and complex edges since late 1960's translates directly into a 50% loss of summer rearing habitat for juvenile salmonids. Stream channel condition in 77% of the 211 miles of anadromous fish habitat in BLM's Salem District of western Oregon fail to meet desired BLM standards.
- o **East-side Oregon** habitat in the Upper Grande Ronde River Basin has been degraded. 80% of fish habitat fails to meet current Forest Plan standards and guidelines for temperature, sediment, and riparian condition. 20% exceeds current Forest Plan standards and guidelines. BLM habitat in the basin has undergone similar degradation.
- o **Upper Snake River Basin** habitat in the developed portions of the Middle Fork Clearwater and Lost Rivers watersheds on the Clearwater National Forest in Idaho have been degraded. 70% fail to meet Forest Plan standards and guidelines. Between 1935 and 1992, the number of large pools in the Salmon River Basin has decreased by 52% in managed watersheds and increased by 29% in Wilderness area watersheds.

#### "Good" Habitat Conditions Were Defined

With the help of historic inventory and survey data, as well as current research, "good" anadromous fish habitat conditions have been defined. This was determined by comparing quantitative habitat surveys, completed between 1989 and 1992, with surveys done by the Bureau of Fisheries, now the National Marine Fisheries Service, between 1934 and 1941 on 116 watersheds in Alaska, Idaho, Oregon and Washington. "Good" habitat has been defined using physical features as surrogates for the processes that form salmonid habitat. One key feature (pool frequency) and four supporting features (water temperature, amount of large woody debris interacting with stream channels, streambank stability and bank angle, and width to depth ratio of stream channels) are used to describe habitat quality. In "good" habitat, all five features are above the following threshold levels:

- o **Pool Frequency** (pools per mile). Varies by wetted width of stream.  

Wetted Width:	5	10	15	20	25	50	75	100	125	150	175	200
Pools/Mile:	184	96	70	56	47	26	23	18	14	12	10	9
- o **Water Temperature.** Compliance with State Water Quality standards generally provide adequate protection for salmonid assemblages, except that summer temperatures should be less than 68 degrees F.

- o **Large Woody Debris.** The amount of large wood debris needed varies by geographic location. Southeast Alaska, Northern California, and western Oregon and Washington: greater than 80 pieces per mile; greater than 24 inch diameter; greater than 50 foot length.  
  
East of Cascade Crest in Oregon, Washington, and Idaho: greater than 20 pieces per mile; greater than 12 inch diameter; greater than 35 foot length.
- o **Bank Stability and Lower Bank Angle** (non-forested setting): Bank stability exceeds 80%. 75% of banks should be undercut (i.e. less than 90 degree angle). Less than 25% of bank angles should be greater than 90 degrees.
- o **Width to Depth Ratio:** less than 10 in all systems (measured as mean wetted width divided by mean depth).

## Elements Of The PACFISH Strategy

The PACFISH effort is a proactive, ecosystem approach to management of watersheds and Pacific anadromous fish habitats across five Forest Service Regions and four BLM state administrative units, including the states of Alaska, California, Idaho, Oregon and Washington. Eight alternatives are being evaluated, including six developed by the PACFISH Field Team, alternative 8A from the Gang of Four Report, and a draft riparian management strategy from Region 5 of the Forest Service. The eight alternatives include some combination and application of key watershed identification, watershed analysis, Riparian Habitat Conservation Areas and standards and guidelines, and watershed restoration. The PACFISH strategy is building upon a scientifically sound assessment that characterizes current habitat conditions, provides an understanding of the elements of "good" habitat condition, provides the knowledge of how to manage watersheds to maintain "good" habitat where it now occurs and achieve "good" habitat conditions in areas that currently are degraded.

- o **Riparian Management Objectives** are being refined that call for the maintenance or restoration of: (a) water quality to a degree that provides for stable and productive ecosystems (i.e. timing and character of temperature, sediments and nutrients), (b) stream channel integrity, channel processes and sediment regime under which the ecosystems developed (e.g. timing, volume, and character of sediment input and transport), (c) instream flows to support desired riparian and aquatic habitats, stream channel stability and effective function, and ability to route flood discharges, (d) natural timing and variability of the water table elevation in meadows and wetlands, (e) diversity and productivity of native and desired non-native plant communities, (f) riparian vegetation so amount and distribution of large woody debris is characteristic of natural riparian and aquatic ecosystems, (g) habitat for populations contributing to viability of riparian-dependent communities (i.e. native and desired non-native plants, vertebrates, and invertebrates), (h) riparian vegetation for adequate summer and winter thermal regulation, (i) riparian vegetation so the rates of surface and bank erosion and channel migration are similar to the rates under which the communities developed, and (j) riparian and

aquatic habitats for the unique genetic stocks that evolved within that specific geo-climatic region.

- **Key Watersheds** are being identified by determining which watersheds are important to "at risk" stocks, and currently are in "good" condition, or have a high potential for restoration. Key watersheds will receive top priority for watershed analysis, maintenance and restoration activities.
- **Riparian Habitat Conservation Areas (RHCAs)** where particular management sensitivity is warranted are being defined. RHCAs include the traditional riparian corridor along permanent fish-bearing streams, and also include areas of unstable soils, wetlands, intermittent headwater streams, and other areas where proper ecologic functioning is crucial to maintenance of the stream's water, sediment, woody debris and nutrient delivery systems. Based on regional averages throughout the five state area, minimum interim widths for delineation of RHCAs, in the absence of site-specific information, are as follows:

Fish bearing streams and lakes = 300 ft

Permanently flowing non-fish bearing streams = 150 ft

Ponds, reservoirs, and wetlands > 1 acre = 150 ft

Seasonally flowing or intermittent streams, wetlands < 1 acre, landslides and landslide-prone areas = 100 ft

- **Modified Planning Direction** is being developed to improve consistency of content and approach in Forest Service and BLM planning documents.
- **Interim Standards and Guidelines** for all National Forests and BLM administered Public Lands that support Pacific anadromous fish stocks are being developed.
- **Watershed Analyses** will be conducted to identify "problem" areas that need immediate, corrective management. Watershed analysis also will allow the delineation of RHCAs to be tailored to site specific conditions, and will provide the foundation for determining modifications to the interim standards and guidelines necessitated by site specific conditions. Watershed analyses will be conducted in two steps. Level I allows for timely assessment and modification of existing practices and identification of "hot spots" that should immediately be targeted for maintenance and/or restoration. Level II allows for a more complete assessment of cumulative effects and refinement of RHCA delineation. Both Level I and Level II watershed analyses will be certified by appropriate line officers upon completion. Public involvement in watershed analyses will be encouraged.

- 2. **Watershed Restoration** efforts in key watersheds will receive priority. All restoration work will be designed at a watershed/landscape scale and will involve coordination between changes in land management activities and active restoration projects.

### Implementation Process

Direction provided by the PACFISH strategy will be science based, practical, and economically feasible. It also will provide assurance to the public that we are responding seriously to the situation. Because of critical status of many of the "at risk" anadromous fish stocks and the Forest Service and BLM's need to demonstrate commitment to improved habitat conditions on lands they administer, consideration is being given to the issuance of interim direction that will apply to Forest Service and BLM stewardship of all anadromous fish habitat on National Forests and Public Lands in the West. Appendix 5K of the Report of the Scientific Analysis Team is one of the six PACFISH developed alternatives, and provides some indication of the type of interim direction being considered. Selection of final management direction will proceed with a full NEPA review of all alternatives that meet technical and legal requirements.

United States  
Department of  
Agriculture

Forest  
Service

R-6

Reply to: 2610/2670

Date: February 16, 1993

Subject: Section 7 Consultation Process for Anadromous Fish

To: National Marine Fisheries Service, Environmental Technical Services  
Division  
Forest Supervisors: Bitterroot, Clearwater, Nez Perce, Boise, Salmon,  
Challis, Payette, Sawtooth, Umatilla, and Wallowa-Whitman NF's

This letter supersedes our January 19, 2610/2670 letter. This letter reflects needed clarification and changes that became apparent after implementation of the previous process. Forest Service (FS), Regions 1, 4, and 6, and National Marine Fisheries Service (NMFS) staffs met in Boise on February 9 to discuss the previous process and to resolve the problems encountered with the Section 7 consultation process. Minor changes were also made in the January 14, revision to the December 10, 1992 Biological Evaluation/Assessment outline (enclosed).

Please act immediately to implement the following Section 7 process:

1. Documentation:

a. Forests will compile existing consultation documents for ongoing and proposed 1993 actions.

ongoing - actions that have been implemented or that have contracts awarded.

proposed - actions that are not ongoing, but are planned for implementation in 1993.

b. The Columbia River Basin Coordinator will provide to NMFS by February 19, a final copy of the map of the Snake River Basin Forests delineating the watershed analysis units.

c. Forests will determine which ongoing and proposed 1993 actions have no effect on Snake River salmon. These projects will not be submitted to NMFS for consultation.

d. Forests will group ongoing and proposed 1993 actions that may affect listed Snake River salmon by geographic area (watershed) and resource (i.e., range, timber, minerals, recreation, etc.).

e. The FS and NMFS (in cooperation with Bureau of Land Management staff) have agreed to the enclosed Biological Evaluation/Assessment outline (BE/A outline). Forests will utilize this outline to reshape their consultation packages by watershed and resource.



NMFS, Forest Supervisors

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The Regional Foresters of Regions 1, 4, and 6 and the NMFS Regional Director direct that you follow this approach. This new process, in conjunction with an increase in NMFS staff, should allow us to fulfill the ESA Section 7 requirements. Your continuing cooperation in meeting our mutual responsibilities is greatly appreciated.

/s/Rolland A. Schmitten  
 ROLLAND A. SCHMITTEN  
 Regional Director  
 Northwest Region  
 National Marine  
 Fisheries Service

/s/Gray F. Reynolds  
 GRAY F. REYNOLDS  
 Regional Forester  
 Intermountain Region  
 USDA Forest Service

/s/David F. Jolly  
 DAVID F. JOLLY  
 Regional Forester  
 Northern Region  
 USDA Forest Service

/s/John E. Lowe  
 JOHN E. LOWE  
 Regional Forester  
 Pacific Northwest Region  
 USDA Forest Service

Enclosure

- F. Descriptions of habitat condition/trend, limiting factors, and relationship to desired future condition objectives.
  - 1. Spawning habitat - (incubation, gravel quality and quantity, etc.)
  - 2. Rearing habitat - (temperature, cover, pool ratios, riparian, water quality and quantity, etc.)

### III. Description Of Ongoing Or Proposed Action:

- A. Purpose and need of the action. (reference NEPA document if available).
- B. Describe site specific activities of the ongoing or proposed action. Aggregate activities and/or actions by type (i.e. timber, range, mining, recreation, etc.).
  - 1. Describe management measures (S&G's) and practices generally applicable to all aggregated units (i.e. timber sale units, grazing units).
  - 2. Describe units with additional or different management measures or direction.
- C. Provide site-specific map of each action within the Sec. 7 watershed.

### IV. Analysis of Potential Effects of the On-Going or Proposed Action on Listed and Proposed Salmonids (see "Effects of the action", 50 CFR 402.02 Definitions):

- A. Direct and indirect effects. (see "Effects of the action", 50 CFR 402.02 Definitions).
  - 1. Provide all available scientific information pertinent to the potential effects. Views of recognized experts of the species at issue. (i.e. State fish and wildlife agencies, other federal agencies, Tribes, research centers, and others).
  - 2. Site-specific analysis of potential effects for each ongoing and/or proposed action.
  - 3. Relate potential effects to the limiting factors described in II.F. above.
- B. Interrelated and Interdependent Actions.
 

Expand discussion to include interrelated (part of, and dependent on, a larger action for their justification) and interdependent actions (actions or activities that would not occur but for the proposed action) which are specific to the proposed federal action, including detailed descriptions of effects on listed or proposed species. (see "Effects of the action", 50 CFR 402.02 Definitions) (i.e. mining, timber and road use permits)
- C. Cumulative effects (50 CFR 402.02 Definitions).
 

Effects of ongoing and future State and/or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation.

## MESSAGE SCAN FOR HARV FORSGREN

To SRB Forests  
 To SRB Forest Sups  
 CC CRB4F  
 CC CRB RANGE OFFICES  
 CC CRB TIMBER OFFICES  
 CC CRB1H  
 CC CRB1T  
 CC CRB1P  
 CC P.JANIK:W01A  
 CC H.FORSGREN:W01A  
 CC J.GORE:W01A  
 CC L.DECKER:R05A  
 CC C.CASIPIT:R10A  
 CC RN  
 CC ENG  
 CC WRCR:R01A  
 CC E:R01A  
 CC RL:R05A  
 CC E:R04A

From: CRBFWL COORDINATOR:R6/PNW Host: R06C  
 Postmark: Feb 16,93 1:35 PM Delivered: Feb 16,93 5:39 PM  
 Status: Certified Urgent  
 Subject: 2610/2670 SECTION 7 CONSULTATION PROCESS FOR ANADROMOUS FISH

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Comments:

SUPERSEDES LETTER OF JANUARY 19. PLEASE DISTRIBUTE TO APPROPRIATE PERSON/S ON YOUR STAFF.

3 PAGE LETTER, SIGNED BY THREE REGIONAL FORESTERS AND NW REGIONAL DIRECTOR OF NMFS

W/3 PAGE ENCLOSURE

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The Section 7 Consultation Process:  
Analyzing Actions that May Affect  
Endangered or Threatened Snake River Salmon

March 16, 1993

National Marine Fisheries Service  
Northwest Region  
7600 Sand Point Way N.E.  
BIN C15700 Bldg. 1  
Seattle, Washington 98115

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This document provides background and general information concerning the section 7 process, but the actual analyses and evaluations of individual actions and groups of actions will occur in the context of specific consultations on a case-by-case basis. Consequently, details of the approach outlined in this document may vary in a particular consultation; furthermore, as information concerning a proposed action is disclosed, as new information and data concerning salmon become available, or as better models or techniques for analysis and evaluation are developed, significant modifications of this approach can and should be anticipated.

## SUMMARY

In late 1991 and early 1992, the National Marine Fisheries Service (NMFS) determined that three "species" of salmon from the Snake River Basin were endangered or threatened under the Endangered Species Act (ESA), including sockeye salmon, spring/summer chinook salmon, and fall chinook salmon (the "listed species"). Under Section 7 of the ESA, Federal agencies, in consultation with NMFS, must insure that their actions are not likely to jeopardize these Snake River salmon species. During the consultation process NMFS (the consulting agency) provides its biological expertise and opinion to Federal agencies (the action agencies) whose actions may affect Snake River salmon species. This report summarizes information and types of data that NMFS may use during the section 7 consultation process.

With the listing of the listed species, NMFS began consultations. In 1992 NMFS established an interim goal "to improve survival and make progress toward reversing the decline of listed and proposed species." This goal was used in the Section 7 consultation process to evaluate various agency actions including certain hydropower operations and fishery activities. While significant progress occurred in 1992, the immediacy of the listings did not allow sufficient time for NMFS or other Federal agencies to develop a comprehensive approach to Section 7 consultations. This report outlines the goals, methods, and information that may be used during 1993 while recognizing that the recovery planning process is incomplete and that for some ongoing actions changes may be appropriate to insure the long-term survival of the species yet cannot be accomplished or implemented quickly.

During these consultations, Federal agencies are strongly encouraged to adopt measures or modify their actions in order to minimize adverse human impacts on Snake River sockeye salmon and to significantly reduce the level of human-induced mortality for Snake River spring/summer and fall chinook salmon. NMFS will stress a comprehensive approach to the consultation process which is anticipated to provide a more complete and coordinated assessment of impacts. Consultations have begun concerning actions that were not fully evaluated in 1992 including hatchery operations and land use activities that may affect salmon habitat. Consultations are being grouped together as much as possible so that broad impacts are assessed and also to facilitate an integrated approach to salmon conservation both within and among agencies. Cumulative effects, interrelated and interdependent effects, and long-term effects will be considered. Finally, NMFS is examining the use of a combined effects assessment to better quantify the impacts of all actions.

Because of the extremely low abundance of Snake River sockeye salmon, the approach used for evaluating the impacts of an agency action on this species is expected to differ from the approach

used for evaluating impacts on Snake River spring/summer and fall chinook. NMFS has recently determined that there will likely be juvenile outmigrant and returning adult Snake River sockeye salmon in the Snake and Columbia Rivers in 1993 (Schiewe 1993). Because so few fish remain, the human-induced mortality of even one adult fish, or an equivalent impact, is a matter of grave concern. NMFS strongly recommends that all Federal agencies take measures to reduce adverse human impacts on Snake River sockeye salmon to minimal levels in order to insure that their actions are not likely to jeopardize the continued existence of this species.

The impacts of agency actions on Snake River spring/summer and fall chinook salmon are expected to be evaluated in two steps. First, NMFS would consider an action individually to determine whether the action includes measures or modifications to significantly reduce the level of human-induced mortality compared with a specified base period. In the second step, NMFS would evaluate the combined effects of all actions using the available Columbia/Snake River salmon life cycle models and other information.

First, in evaluating an individual action and alternatives, NMFS would focus on whether there would be a significant reduction in mortality relative to a 1986-1990 base period.<sup>1</sup> NMFS does not anticipate specifying a quantitative level of reduction that applies to all actions, but it is anticipated that each action would achieve some reduction. In determining whether a proposed action or alternatives provide(s) reductions that are adequate, NMFS would consider the best available scientific information and data, including, among other things: scientific literature for the listed species and related stocks and on the impacts of the proposed action on listed species including quantitative mortality data; the relative contribution of the action to current mortality and overall decline of the species; the availability of measures judged to be effective in reducing mortality; and recommendations for methods of reducing mortality previously developed by NMFS and other interested parties.

Second, NMFS would evaluate a proposed action, the action as modified during the consultation process, and alternatives in the context of the combined effects of all human actions that may affect spring/summer and fall chinook salmon. NMFS anticipates utilizing a quantitative analysis that would be based on the

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<sup>1</sup> Certain actions that result in only minimal impacts to listed species, such as scientific research (in some cases), are not identified as factors contributing to the decline of listed salmon or as impeding recovery. Therefore, these actions will not be subject to base period analysis, but will be required to take measures to minimize impacts on listed species.

three life-cycle models developed regionally. Because not all consultations occur at the same time, NMFS may have to issue biological opinions on some actions before a combined-effects analysis could be completed. If necessary for these early consultations, NMFS may provide an initial determination based on the first step of the evaluation process with the condition that the consultation may need to be reinitiated once information on all actions is available and model analysis is complete.

As a caution, NMFS notes that, in general, under this approach Federal agency actions would be evaluated on an annual basis. Once a recovery plan is adopted, NMFS anticipates that it would use a comprehensive analysis of long-term operations or activities and would further address measures necessary for the conservation and recovery of the listed salmon species.

## INTRODUCTION

There are currently three "species" of Snake River salmon listed under the Endangered Species Act. The final determination to list Snake River sockeye as endangered was published on November 30, 1991, and the final determination to list the Snake River spring/summer chinook salmon and Snake River fall chinook salmon as threatened species was published on April 22, 1992. In evaluating the status of these species for listing, numerous factors were identified as potentially causing or contributing to decline of the stock or otherwise affecting their continued existence. No single or primary factor could be identified as the primary cause for the decline or as the primary source of mortality; but based on the combination of factors affecting the continued existence of the species, NMFS determined that the species were in danger of extinction or likely to become endangered within the foreseeable future. After listing, it became necessary for Federal agencies and NMFS to evaluate the impacts of individual actions on listed salmon stocks in section 7 consultations. However, changes to any one action alone would not likely be sufficient to insure the continued existence of these species. Therefore, the goal should be to achieve improvements simultaneously in the federal actions affecting all stages of the species' life cycles.

NMFS generally conducts consultations on an annual basis. Although it is generally preferable to consult on long-term projects as a whole, NMFS believes that such comprehensive consultations should be conducted after a recovery plan is developed. Recognizing that impacts cannot be viewed in isolation, the recovery plan will evaluate all sources of mortality and specify measures needed to ensure the survival of the species and, further, to result in recovery. NMFS expects that the recovery plan will provide a sound basis for evaluating the impacts of all federal actions on listed Snake River salmon. When final, NMFS anticipates conducting comprehensive, long-term consultations that further address the measures necessary for the long-term conservation of the listed salmon species.

The Endangered Species Act requires that agencies consult with the Secretary of Commerce or Interior to ensure that actions authorized, funded, or carried out by that agency are "not likely to jeopardize the continued existence" of a listed species "or result in the destruction or adverse modification of habitat of such species." NMFS has defined "jeopardize the continued existence" to mean

to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02).



NMFS has defined "destruction or adverse modification" to mean

a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical. Id.

NMFS has recently proposed the designation of critical habitat for the listed species (57 FR 57051, Dec. 2, 1992). Under section 7(a)(4) of the ESA, agencies must confer, rather than consult, on actions that are likely to result in destruction or adverse modification of critical habitat. NMFS anticipates that any critical habitat conference required for a proposed 1993 action will be conducted in conjunction with the consultation on that action.

Prior to the 1992 consultations, NMFS attempted to quantify the decreases in mortality necessary to stabilize Snake River salmon populations for various life stages including 1) presmolt, 2) downstream migrant, 3) ocean fishery, 4) river fishery and 5) upstream migrant. NMFS concluded, however, that there were too many uncertainties in this approach to justify its direct application during the consultation process (NMFS 1992). Ultimately, NMFS adopted as an interim goal for 1992 that all Federal agency actions should "improve survival and make progress toward reversing the decline of listed and proposed species." This goal was used in the Section 7 consultation process to evaluate various agency actions including certain hydropower operations and fishery activities and some federal actions involving hatcheries or affecting the listed species habitat.

Since the 1992 consultations, NMFS has continued to consider options and seek the information necessary to develop a quantitative framework for determining the degree to which mortality should be reduced and for allocating necessary reductions in mortality among the various actions affecting the various life stages. NMFS recently considered a second approach that grouped actions by category rather than the life stage affected. The action categories included 1) habitat degradation, which primarily affects egg-to-smolt survival, but may also affect prespawning mortality; 2) hatchery operations, which affect the survival of listed species; 3) hydrosystem operations, which affect juvenile and adult passage survival; and 4) harvest, which affects ocean and in-river survival. One of the difficulties with this approach is that the effects of habitat degradation and hatchery operations are not understood or quantified to the same degree as those of harvest and hydropower operations. Despite these recent efforts, NMFS has again concluded there is insufficient information to specify the degree to which mortality must be reduced or to objectively allocate the

necessary reductions among actions or life stages (Schiewe 1992a). As an alternative, NMFS has extended and refined the qualitative goals used in 1992 based on experience from the previous consultations and has expanded the scope of the analysis for both the Snake River spring/summer and fall chinook salmon species to consider simultaneously, to the degree possible, the combined effects of all agency actions affecting the species. The following report outlines the goals, methods and information that will be considered during the section 7 consultation process regarding actions affecting Snake River salmon species in 1993.

#### **SNAKE RIVER SOCKEYE SALMON**

Notwithstanding the fact that no ocean-going sockeye salmon adults spawned in Redfish Lake in 1991 or 1992, there is reason to believe that juvenile Snake River sockeye salmon will be in the Columbia River Basin in 1993. (In 1991 and 1992 the few returning spawners were taken into a captive breeding program.) Over the last year, evidence has mounted that there is a population of residual Snake River sockeye salmon in Redfish Lake that produce ocean-migrating progeny (Schiewe 1993) and that this residual population is part of the Snake River sockeye salmon "evolutionarily significant unit" (ESU). Because this residual population is a potential contributor, NMFS has therefore concluded that it is prudent to treat these fish as members of the ESU and to ensure their protection.

NMFS also has concluded that there is the potential for adult returns from anadromous parents spawning in 1989 or 1990. Adult returns from residual sockeye salmon parents must be considered a possibility as well (Schiewe 1993).

Because of the expectation that there may be both juvenile and adult sockeye salmon from the Snake River in the Columbia River Basin in 1993, it will be necessary to take measures to minimize any adverse impact. Because so few fish remain, the approach used for evaluating the impacts of an agency action on the listed sockeye salmon species is expected to differ from the approach used for evaluating impacts on Snake River spring/summer and fall chinook salmon. The human-induced mortality of even one adult fish, or an equivalent impact, is a matter of grave concern. NMFS strongly recommends that all Federal agencies take measures to reduce adverse human impacts on Snake River sockeye salmon to minimal levels in order to insure that their actions are not likely to jeopardize the continued existence of this species.

#### **SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK SALMON**

For 1993 consultations for listed Snake River spring/summer and fall chinook salmon, NMFS will analyze agency actions in two

steps. In the first step, NMFS will consider each action individually with respect to reductions in mortality from a specified **base period**. In the second step, NMFS will evaluate the **combined effects** of all actions using the available Columbia/Snake River salmon life cycle models.

#### Base Period Analysis Criterion

The first step of the analysis for spring/summer and fall chinook salmon will be similar to that used in 1992. In evaluating a proposed action and alternatives, NMFS will consider whether or not there have been adequate reductions in mortality for each action relative to that of the 1986-1990 base period.<sup>2</sup> The base period represents the most recent series of years prior to consideration of the species for listing and implementation of the initial actions in 1991 designed to improve the status of the stocks. The period is long enough to encompass a full life cycle and includes a recent series of years subject to relatively consistent management practices. The base period selected is also consistent with that used during most of the 1992 consultations. The 1986-1990 base period provides the starting point for the base period analysis, but is not intended to be used to the exclusion of other pertinent information. For example, additional base periods may be considered for a particular action if it can be demonstrated that they better represent a recent series of years managed on a consistent basis prior to listing and implementation of actions designed to improve the status of the listed species.

In determining whether a proposed action or alternatives provide(s) reductions that are adequate, NMFS would consider the best available scientific information and data, including, among other things: scientific literature for the listed species and related stocks and on the impacts of the proposed action on listed species including quantitative mortality data; the relative contribution of the action to current mortality and overall decline of the species; the availability of measures judged to be effective in reducing mortality; and recommendations for methods of reducing mortality previously developed by NMFS and other interested parties.

Ideally, scientific information would be sufficiently developed that NMFS could pinpoint and quantify all the human-induced

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<sup>2</sup> Certain actions that result in only minimal impacts to listed species, such as scientific research (in some cases), are not identified as factors contributing to the decline of listed salmon or as impeding recovery. Therefore, these actions will not be subject to base period analysis, but will be required to take measures to minimize impacts on listed species.

causes of chinook salmon mortality for each life stage, convert that mortality to adult equivalents, and specify the exact reduction in mortality necessary for each action to ensure that the totality of actions does not reduce appreciably the likelihood of the survival and recovery of listed species. Unfortunately, the available scientific information does not provide much certainty in these areas, except that it is clear that substantial reductions in total human-induced mortality are necessary to prevent further decline in the species. However, even if the science were sufficiently developed to identify all the human-induced causes of mortality, it would still be necessary to make judgments about how to apportion the required reductions among life stages and actions. The combined-effects analysis described below is an initial attempt to assess whether the proposed reductions in total mortality for all actions will be sufficient to stabilize the populations abundance, but does not provide any direct guidance on evaluating a specific action.

Given the available information and resulting scientific uncertainty, and the different options for allocating reductions, NMFS must rely on the best available scientific information, on its best professional judgement as to what alternative measures are available and their effectiveness in achieving additional mortality reductions, and on a rule of reason in evaluating actions.

As an initial matter, there is evidence that actions in each of the four areas (harvest, hatcheries, hydropower and habitat) cause human-induced mortality that has contributed to population declines or is impeding recovery. Because each action has contributed to decline or is impeding recovery, it is reasonable to require that each action demonstrate a reduction in mortality relative to that observed during the base period. The degree of reduction required by each action would depend on a number of factors discussed below.

There is a great deal of information already available regarding the magnitude and causes of mortality for some actions, particularly harvest and hydropower operations. There is also information on measures that could be taken to reduce mortality for these actions. Existing scientific literature and reports developed by NMFS and other interested parties describe significant sources of mortality and provide recommendations regarding methods for reducing mortality. During the consultation process, measures proposed for each action will be evaluated based on the best available scientific information. NMFS recognizes that some adverse effects on species' survival, as well as the effects of some mitigating measures, are not easily quantifiable. This is particularly true for hatchery actions and actions affecting habitat. The effects are real, however, and will be considered to the extent allowed by the best scientific knowledge and judgment.

Required reductions should also consider the adult equivalent impact of the human-induced mortality caused by each action. As a result, NMFS would compare, to the degree possible, the anticipated reduction in mortality for each proposed action with the level of human-induced mortality caused by that action. Where the level of mortality or the expected mortality reduction is not known with certainty, NMFS will use the best available information and its best scientific judgment to assess whether proposed reduction is sufficient.

#### Combined-Effects Analysis

In the second step of the section 7 consultation analysis, NMFS would evaluate the combined effects of all agency actions on the listed species. The goal is for the combined effects of all actions to allow the abundance of listed species to stabilize at levels observed in recent years within four life cycles. NMFS would consider a population stabilized if the average number of spawning adults expected during the last five years of the four life cycle period (2004-2008) is equal to or greater than the number observed during the 1986-1990 base period. For Snake River fall chinook salmon, the base population figure is 288 wild adults per year at Lower Granite Dam; for Snake River spring/summer chinook salmon, it is 2,052 redds per year (Schiewe 1992b).

The combined-effects analysis would be conducted using, in part, the three available Snake/Columbia River salmon life cycle models that were developed by the Joint State and Tribal Agencies, Northwest Power Planning Council and Bonneville Power Administration. These models project future abundance of stocks based on a depiction of existing conditions and consideration of the effects of future improvements. The analysis assumes that improvements implemented in 1993, and others that are certain to be implemented in the near future, will be maintained through the four life cycles.

NMFS would use these models with caution as they are new and their scientific validity has not been proven. There are discrepancies between models that are not resolved and uncertainties with respect to input parameters and modeling procedures. In addition, it will be difficult to quantify the benefits of expected improvements in hatchery and habitat activities and to incorporate the projected benefits into the life cycle model analysis, except rather indirectly through adjustments in model productivity functions. Efforts are underway to address these uncertainties, but they will not be fully resolved prior to the necessary consultations on 1993 actions. Nevertheless, NMFS believes that the models are sufficiently developed to justify their use in the limited context proposed here and that they represent the best available

information and the primary means available for assessing the combined effects of all actions.

NMFS has concluded that the three life-cycle models are best used to provide long-term projections of the relative change in population abundance that may occur as a result of measures implemented to reduce mortality, and are less reliable in providing measures of absolute abundance. NMFS would therefore use measures of the relative change in expected escapement provided by the models in evaluating the results of the combined-effects analysis. The relative change in escapement predicted by the life cycle models would be expressed as a **benefit ratio**. The benefit ratio would be calculated using the average escapements from the last five years of the analysis period (2004-2008) from model runs depicting proposed and base period conditions (benefit ratio = proposed action escapement/base condition escapement). The benefit ratio would be used to determine whether all mortality reductions combined are sufficient to stabilize the listed populations. Although the combined-effects analysis uses the extended four life cycle time frame for measuring response, it should be emphasized that the question being addressed is whether improvements made in 1993 are sufficient (assuming that those improvements are continued) to halt the declining trend and stabilize the population abundance at specified levels. The combined-effects analysis is therefore an improved method of evaluating improvements made in 1993 and complements the base period analysis described above.

If the combined-effects analysis does not demonstrate a likelihood of population stability in four life cycles, NMFS will reconsider each proposed agency action and determine which actions will be required to provide further reductions in mortality. Determinations from this review of actions will be based on considerations used in 1992 consultation analyses.

There are two issues with respect to the combined-effects analysis that merit further explanation. First, is it reasonable to conclude that a stable abundance will result in the continued existence of the species? The second question that needs to be answered is how the benefit ratios developed from the life cycle models will be evaluated.

#### Sufficiency of the Stability Criterion

The proposed criterion for the combined-effects analysis is to stabilize the abundance of the listed species at the levels observed during the 1986-1990 base period. Because of the time lag between actions taken to improve survival in early life history stages and increases in adult abundance, meeting the goal exactly by 2008 would mean that there would be an expectation that the population abundance would continue to decline for a

period of time (albeit at a decreasing rate) before increasing to return to the pre-1990 levels. Table 1 shows the expected trajectory of abundance for spring/summer and fall chinook salmon if the goal were just met. The suitability of the stability goal was evaluated by assessing the genetic and demographic risks to the listed species if the populations actually followed these trajectories. The analysis is summarized here and described in more detail in a memorandum dated 23 December 1992 (Schiewe 1992b).

### *Genetic considerations*

#### *a. Background*

The primary genetic concern with respect to low population size is that severe bottlenecks in the population can cause inbreeding and resulting declines in productivity. Examples of these kinds of effects have been documented in a number of studies of various fish species. With somewhat larger (but still low) population sizes, the danger is that, over time, the gradual erosion of genetic variability will cause inbreeding depression and/or reduce the population's ability to respond to future changes in environmental conditions.

For evaluating the effects of genetic bottlenecks (inbreeding and loss of genetic variability) on a population, the key parameter is the effective population size **per generation** ( $N_e$ ). In Pacific salmon, the data that are typically available are some measure of the number of adults returning per year. Recent research (Waples 1990) has shown that the effective number per generation in Pacific salmon is equal to the harmonic mean effective number per year ( $N_h$ ) times the average age at reproduction. For Snake River spring/summer and fall chinook salmon, average age at reproduction is about 4-5 years, so if (for example) the effective number per year were 100, the effective size per generation would be about 400-500.

There is at present no consensus regarding the minimum acceptable effective size for a population, but most scientists would probably agree that an  $N_e$  of a few hundred per generation is necessary for long-term maintenance of current levels of genetic variability. Waples (1990) suggested that maintaining an  $N_e$  of 100 or more per year is desirable for most Pacific salmon populations. Smaller bottlenecks may not cause severe genetic losses if they are of short duration (a few generations or less). Because  $N_e$  is typically smaller than the number of spawners (because of unequal sex ratio and unequal reproductive success among individuals), spawning escapements must be somewhat larger than the targeted effective population size (perhaps twice or three times as large).

### *b. Fall chinook salmon*

With respect to the proposed goal, 288 adult wild fall chinook salmon per year for 4-5 years would represent about 1,150-1,440 adult fish per generation arriving at Lower Granite Dam. After accounting for pre-spawning mortality and other factors (uneven sex ratio and high variance in reproductive success) that generally cause the effective size of natural populations to be substantially lower than the census number, the goal still can be expected to result in an  $N_e$  per generation of several hundred. This is true even at the low point of the trajectory described in Table 1 (five year average of 225 adults). This should be large enough to minimize the short-term risks to the population from inbreeding and erosion of genetic variability.

### *c. Spring/summer chinook salmon*

Assuming each redd corresponds to approximately 2.5 adult fish, an average of 2,052 spring/summer chinook salmon redds per year corresponds to a population abundance during the base period of about 20,000 - 25,000 wild adults per generation (2,052 redds/year x 2.5 fish/redd x 4-5 years/generation). Even allowing for 1) a reduction in effective population size below the census number and 2) the projection that abundance would decrease to 9,303 redds per 5 years or about 1,860 redds/year by 1997 (Table 1), it appears that the target population size is large enough that no significant problems from inbreeding would be expected if the population behaved as a single, randomly mating unit.

There continues to be some concern that local populations of spring/summer chinook salmon could fall below desired levels. NMFS anticipates that it may be necessary to establish individual subbasin escapement goals for spring/summer chinook salmon. However, not all of the life cycle models are designed to project escapements to individual subbasins. We expect that additional refinements in our evaluation criteria and reductions in mortality will be needed to provide for long-term recovery. As a result, for purposes of the combined-effects analysis, NMFS will defer consideration of individual subbasin escapement goals pending further analysis.

### *Demographic considerations*

The other problem associated with low population size is the risk of extinction. To date, NMFS' ESA evaluations have used a simple drift-diffusion model (the "Dennis model", Dennis et. al 1991), in conjunction with other information, to evaluate the degree of risk faced by a population. We can apply this model to assess the risk to populations that would result if the proposed



combined-effects objective is met for Snake River chinook salmon populations. The goal is that the 5-year average population in the years 2004-2008 is greater than that observed in 1986-1990. According to the Dennis model, and assuming that 1) abundance just meets the goal in 2008, and 2) the overall trend in abundance is neither decreasing nor increasing, the probability of extinction in the next 100 years would be minimal for both fall and spring/summer chinook salmon.

One feature of the proposed goal is that, because the populations can be expected to continue to decline for a period of time before implemented changes fully take effect, population abundance will decline below target levels before rising to meet the target at the end of the time frame. This means that the analysis above is in one sense conservative, because it assumes that the mean rate of population change in 2008 will be zero, rather than the positive rate expected if the population follows the expected trajectory.

On the other hand, the temporary decline in abundance that would be expected even if actions that meet the proposed goal were implemented might increase the level of risk faced by the population during this transition period. This risk is difficult to evaluate using the Dennis model because that model assumes no change in conditions that were obtained during the base period; whereas, changing these conditions is the explicit purpose of actions taken to avoid jeopardy to the species. As an alternative, it is possible to calculate confidence intervals around the population abundance trajectories shown in Table 2. The lower 95% confidence bounds for abundance for spring/summer and fall chinook salmon calculated around the population trajectories in Table 1 are shown in Figure 1. This figure provides some insight into the short-term demographic risk of extinction posed by the temporary population decline that is expected even if actions are taken to meet the goal. As is apparent from Figure 1, the lower bounds for both species are substantially higher than one indicating little risk of extinction during the period 1992-2008.

The Dennis model should be used with caution, as it 1) does not include any density dependence, 2) does not incorporate age-structure, 3) does not compensate for effects of past management (harvest rates, hydropower system operations, etc.), and 4) may not be applicable to very small populations (<100). Conclusions regarding extinction are thus far from exact, and must not be construed to suggest that the populations will be out of danger if mean change is zero over sixteen years. However, the general indication is that the proposed standard, if achieved, would put both populations in a much better position than they are now.

As a result of these considerations of genetic and demographic concerns, NMFS has concluded that stabilizing the population at

recent levels will significantly reduce the probability of extinction and will provide an adequate short-term buffer against inbreeding and loss of genetic variability due to low population size.

#### Comparative Values for Evaluating Benefit Ratios

As was indicated earlier, the life cycle models will be used to provide measures of relative change rather than absolute abundance. The relative change will be expressed in terms of a benefit ratio calculated using average escapements from model runs depicting proposed and base period conditions. In order to evaluate the benefit ratios, it is necessary to develop independent estimates of the relative change in population parameters that can be used as comparative values. This was done using projections from the Dennis model. The analysis is described here in general and in more detail in a memorandum dated December 23, 1992 (Wainwright 1992).

NMFS has used the Dennis model in conjunction with other information in previous analyses to evaluate the degree of risk faced by a population. The Dennis model is a simple exponential population model that incorporates measures of random variation. The model uses observations of abundance from past years (the calibration period) to project population abundance into the future. The future projection of the current trend line represents the base period condition assuming that there will be no change in actions that affect the populations.

The stability criterion defines a target for the future abundance of the chinook salmon populations, i.e., average abundance in 2004-2008 should be equal to or greater than that observed in 1986-1990. Given the base period trend as defined by the Dennis model and the future target for the populations, it is possible to estimate the changes in model parameters necessary to meet the target population levels. The model therefore provides an alternative trajectory for the populations comparable to the proposed action scenarios considered in the life cycle model analysis. Because the Dennis model incorporates measures of variability observed during the calibration period, it is also possible to estimate the degree of confidence with respect to meeting the specified objective. Greater confidence is obviously associated with higher benefit ratios.

One of the features of the Dennis model analysis is the assumption that the population would continue to decline for a few years, before increasing to pre-1990 levels because of the time lag between the implementation of actions and the full accrual of benefits to returning adults (Figure 1). Results of the analysis can be summarized in terms of three parameters including 1) the benefit ratio that shows the relative change in

population abundance required to meet the stability objective and provides the necessary comparative values for the combined-effects analysis, 2) the expected number of spawners at the end of the analysis period (5-year average for 2004-2008), and 3)  $\mu_e$ , the final instantaneous rate of change in the population. Table 2 summarizes how these parameters vary depending on the specified level of confidence.

The goal of the analysis is to determine the likelihood that the combined effects of all actions would stabilize the abundance of the listed species. The tabulated confidence levels are equivalent to the probability that the 2004-2008 average escapement will be equal to or greater than the average observed from 1986-1990. However, it is pertinent in understanding the analysis to point out that, if the expectation of population stability after four life cycles were achieved, the chinook salmon populations would be expected to have positive growth rates once the measures are implemented and take full effect on each phase of the brood cycle. Selection of a higher confidence level would increase the degree of certainty about meeting the objective. However, it also would result in an expectation that population growth rates at the end of the analysis period could be quite high and that the number of spawners at the end of the analysis period would be substantially higher than during the 1986 to 1990 base period (Table 2).

The objective of the combined-effects analysis is to determine whether mortality reductions resulting from proposed improvements are sufficient to be likely to stabilize the populations at base period levels. Although it is necessary for NMFS to make a determination as to the sufficiency of mortality reductions at this time, it is also true that NMFS will continue to evaluate circumstances and modify actions as necessary to ensure that the actions will not likely jeopardize the continued existence of the listed species.

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Table 1. Five-year running average abundance projections for spring/summer and fall chinook salmon populations under the status quo (pre-listing) and with changes implemented to just meet the population target.

Year	<u>Spring/Summer</u>		<u>Fall</u>	
	Status Quo	Target	Status Quo	Target
1990	2,052	2,052	288	288
1991	2,003	2,003	272	272
1992	1,955	1,959	256	258
1993	1,909	1,922	242	246
1994	1,864	1,892	228	237
1995	1,820	1,871	215	230
1996	1,776	1,861	203	226
1997	1,734	1,861	191	225
1998	1,693	1,866	180	225
1999	1,653	1,879	170	227
2000	1,614	1,896	160	232
2001	1,576	1,914	151	238
2002	1,538	1,933	142	244
2003	1,502	1,953	134	251
2004	1,466	1,972	126	258
2005	1,431	1,992	119	266
2006	1,397	2,011	112	273
2007	1,364	2,031	106	281
2008	1,332	2,052	100	288

Table 2. Benefit ratio, final instantaneous rate of population change ( $\mu_g$ ) and expected adult abundance (five-year running average) required to meet stability objective with specified level of confidence.

	Confidence (%)	Run	
		Spr/Sum Chinook	Fall Chinook
Benefit Ratio in 2004-2008	99	23.0	8.0
	95	10.4	6.0
	90	6.8	5.1
	80	4.1	4.2
	70	2.8	3.6
	60	2.1	3.2
	50	1.5	2.9
Final Rate of Change ( $\mu_g$ )	99	0.222	0.111
	95	0.160	0.087
	90	0.127	0.074
	80	0.087	0.058
	70	0.058	0.046
	60	0.033	0.037
	50	0.010	0.028
Expected Adult Abundance in 2004-2008	99	30,690	802
	95	13,894	594
	90	9,106	511
	80	5,459	418
	70	3,775	363
	60	2,755	323
	50	2,052	288

TESTIMONY OF  
MR. ROLLAND A. SCHMITTEN  
NORTHWEST REGIONAL DIRECTOR  
NATIONAL MARINE FISHERIES SERVICE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE

BEFORE THE  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
U.S. HOUSE OF REPRESENTATIVES  
PORTLAND, OREGON

AUGUST 10, 1993

Mr. Chairman and Members of the Committee:

I am Rolland Schmittten, Regional Director of the Northwest Region of the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, U.S. Department of Commerce. I appreciate the opportunity to inform you about NMFS's many roles in the protection and recovery of the Pacific salmon and the progress we have made to date.

NMFS's most visible role in the recovery of Pacific salmon populations is through its delegated authority from the Secretary of Commerce to administer the Endangered Species Act for marine and anadromous resources and their habitat. However, NMFS also has Federal authority and responsibility for marine, estuarine, and anadromous resources under various laws that can affect the recovery of salmon. The primary authorities include the Clean Water Act, the Fish and Wildlife Coordination Act, the Federal Power Act, the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, the Mitchell Act, the National

Environmental Policy Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the Pacific Salmon Treaty Act. These authorities support our role to protect, mitigate, and enhance anadromous fishery resources in all aspects of their life cycle.

Additionally, NMFS actively participates as a member of regional task forces and other salmon oriented groups, including the Klamath River Management Council and reviews activities associated with Federal lands and hydropower operations that have the potential to affect anadromous fish or their habitat. Also, NMFS is directly involved in managing ocean and in-river fisheries and Columbia River Basin hatchery production which affect non-treaty commercial and recreational fisheries and tribal commercial, ceremonial and subsistence treaty fisheries. In this context, NMFS encourages the protection and enhancement of anadromous fish habitat. We strive to restore and improve the productive capacity of all anadromous fish habitat, not just that of species listed under the Endangered Species Act. This is accomplished by working in cooperation with other Federal and state fisheries agencies and tribes.

Under the Endangered Species Act, NMFS has three major roles in the protection and recovery of Pacific salmon. The first is deciding if a species should be listed as threatened or endangered and, if so, promptly designating its critical habitat.



The second is conducting section 7 consultations and evaluating applications and issuing section 10 permits. The third is developing and implementing recovery plans. The objective of recovery plans is to increase depleted fishery stocks and improve degraded critical habitat to allow for delisting the species.

In November 1991, NMFS listed Snake River sockeye salmon as endangered. In April 1992, NMFS listed Snake River spring/summer chinook salmon and Snake River fall chinook salmon as threatened. We presently have petitions to list the Umpqua River sea-run cutthroat trout, mid-Columbia summer chinook salmon, and five populations of Pacific coast coho in Oregon. We also are conducting a status review for coastal steelhead in California, Oregon, and Washington. NMFS has used an open process for involving the public in the listing process and will continue to do so.

An Endangered Species Act section 7 consultation is the process where Federal agencies consult with NMFS to ensure that actions conducted, authorized, or funded by the agencies are not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify their critical habitat. In the context of Federal actions proposed in 1993, NMFS considers the following objectives when deciding whether or not there is "jeopardy" to listed Snake River salmon species. For Snake River sockeye salmon, mortality has to be reduced to a

minimal level to avoid jeopardy, since the loss of even one adult is a cause of serious concern.

For Snake River spring/summer chinook salmon and Snake River fall chinook salmon, there are two criteria, base period analysis and combined effects analysis, both of which must be met. For the base period analysis, there must be substantially lower mortality of listed species in 1993 than the level of mortality caused by an action during a 1986-1990 base period. The 1986-1990 base period reflects the most recent series of years prior to consideration of these species for listing. Second, the combined effects analysis considers the action being reviewed along with effects of all other actions, and has to result in reasonable certainty that populations of Snake River chinook salmon would at least stabilize at 1986-1990 levels within four generations. These are interim objectives that will be modified in future consultations depending in part on the recovery plan now under development.

As of July 28, 1993, NMFS has completed 132 consultations in all the action categories: hydropower, harvest, habitat, and hatcheries. This includes informal consultations, where NMFS agrees that a proposed action, sometimes as modified during consultation, is not likely to adversely affect any of the listed salmon. Many of these consultations were conducted by grouping similar actions and consulting with multiple agencies

simultaneously. Grouping allows NMFS to evaluate a multitude of actions comprehensively and simplifies the administrative burden on all parties involved. Cooperation among the action agencies has been good, and as a result, none of these consultations were issued with "jeopardy" determinations. In all instances, we were able to achieve improvements in salmon survival.

For example, NMFS concluded in a May 26, 1993, biological opinion that the final proposed 1993 operations of the Federal Columbia River Power System are not likely to jeopardize the continued existence of the listed salmon because many improvements over the base period are being implemented. The most significant improvement is the decrease in migration time and reduction of mortality of juvenile Snake River salmon resulting from flow augmentation commitments by Federal agencies that operate the Federal Columbia River Power System. During the consultation, NMFS identified flow targets that, when combined with the improvements in Federal Columbia River Power System operations which I will describe, will be likely to provide an adequate reduction in mortality relative to the 1986-1990 base period.

Other important improvements over the base period for the juvenile Snake River salmon include the operation of a new facility to transport juvenile salmon at Lower Monumental Dam and extended seasonal operation of bypasses. Both of these not only improve juvenile survival, but also improve survival of adults by

reducing fallback through turbines. In addition, continuing a predator removal program is likely to improve juvenile survival as are dam modifications to improve juvenile passage. Also, increased law enforcement activities improve adult survival (more than double the amount for the base period).

Consultations on harvest actions managed by Federal, state, and tribal authorities have decreased the number of listed salmon that are captured in commercial, ceremonial and subsistence, and recreational fisheries. Our participation in the U.S.-Canada Pacific Salmon Commission has also resulted in reduced harvests of listed salmon in Canadian fisheries.

Consultations with land management agencies such as the United States Forest Service and Bureau of Land Management are conducted on a watershed level basis. This ensures that the numerous actions affecting the listed salmon's habitat are reviewed in a comprehensive fashion. These consultations have resulted in improved habitat conditions for the listed salmon. For example, Federal agencies have adopted lower impact logging practices by increasing stream buffer widths and using helicopter yarding techniques on steep slopes. Federal grazing allotment management practices in 1993 should reduce the mortality of the listed salmon because streamside areas will receive better protection from livestock, and in some cases, the number of livestock and the number of days they may graze have been reduced.

Salmon need clean, sediment-free gravel to spawn, and roads are a major source of sedimentation. Through the consultation process, land management agencies have agreed to close, eliminate, or resurface many roads in Snake River salmon watersheds in order to reduce sediment loads. Projects to improve salmon passage through culverts at road crossings are also underway.

Consultations with Federal agencies and permit conditions for state agencies that operate hatcheries have decreased the number of wild adult salmon being collected for broodstock. This means more wild salmon can spawn naturally in their natal streams. The number of hatchery fish being released in areas where they might adversely affect wild listed salmon has also been decreased from the base period by altering the timing and location of their release.

In addition to section 7 consultations, NMFS is responsible for the development and implementation of recovery plans. In contrast to consultations which are designed to stabilize populations of listed species, recovery plans are designed to increase the populations of the listed species to sufficient levels so that they may be removed from the threatened or endangered species list.

In December 1991, NMFS appointed a seven-member scientific recovery team consisting of three fisheries scientists, one

economist, two engineers, and one ecologist. Most of the team's members are from the academic community. Since all three listings involve Snake River salmon, the team was directed to handle the three populations in one recovery plan, and to complete the plan in 1993.

NMFS has adopted a proactive approach to maximize public involvement throughout the development of the recovery plan. The recovery team has been formulating the recovery plan's scientific basis with all regional entities that are concerned with or affected by the recovery plan. The recovery team has held meetings with the public, various state and Federal agencies, industrial trade groups, and tribal organizations to solicit information. Public libraries located in Boise, Idaho; Newport, Oregon; Portland, Oregon; and Seattle, Washington receive copies from NMFS of all materials submitted to the recovery team. This ensures an open process for the public and evaluation of the scientific validity of the information being reviewed by the recovery team.

The team's draft recovery recommendations are expected to be available for peer review late this summer. After peer review and comment, final recommendations will be submitted to NMFS. NMFS will also make the draft plan available for public review and comment. The open review and collaboration process will provide more information to the recovery team, and will allow a

recovery plan to be provided to the Secretary that is both scientifically sound and regionally supported.

NMFS faces a tremendous workload: implementation of the Snake River salmon recovery plan; completion of the status reviews for eight new anadromous populations that have been petitioned for listing and the potential development and implementation of recovery plans; and completion of a large number of consultations and permits. We have increased our staff, but that is a temporary solution. We need to focus more on an ecosystem approach; one that aids several species at once and will preclude further listings. The President's Forest Ecosystem Management Plan is an example of the correct approach.

The coastwide initiative is similar to the President's plan in that it focuses on an ecosystem approach to habitat protection and restoration. It is intended to be a Federal/non-Federal partnership aimed at precluding the listing of individual species under the Endangered Species Act. The coastwide initiative has been mostly a state effort to date. NMFS has encouraged the coastwide initiative and is working cooperatively with the U.S. Fish and Wildlife Service in support of its continued development in a way that involves states, tribes and the private sector. It is critical that efforts such as these be implemented. Recovering listed species and restoring habitat can be very expensive; it is far more cost effective and scientifically valid

to aid species holistically so that listing on a species-by-species basis under the Endangered Species Act becomes unnecessary.

In closing, I would offer these comments on the President's forest management plan. I have been a fisheries manager for nearly a decade and a half, and in my experience during that time, I believe there has never been full consideration of fish needs in land use decision making. I view the President's plan as a measure of equity for fish and wildlife. It recognizes that fish must be protected outside the stream beds and into the riparian zones. It will involve us in all land use decisions that affect fish.

Thank you for the opportunity to appear before you. I would be pleased to answer any questions you may have.



**STATEMENT OF MARVIN L. PLENERT, REGIONAL DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, PORTLAND, OREGON, BEFORE THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES CONCERNING THE DECLINE OF PACIFIC SALMON STOCKS.**

August 10, 1993

Mr. Chairman, thank you for the opportunity to be before the Committee today to address the continuing decline of Pacific anadromous fish stocks. My remarks today will focus on the role and responsibilities of the Fish and Wildlife Service and our coordination with other agencies. I will also provide examples of successful efforts in restoring declining salmon populations and describe our plans for the future.

Salmon and steelhead trout have long been important to the people of the Northwest -- important to Native Americans, to coastal communities, and to commercial and recreational anglers. The Fish and Wildlife Service also has a long history of stewardship of these resources, dating back to 1872 on the McCloud River in California. Our efforts at that time were much simpler than today but they signalled an early recognition that salmon stocks were in trouble even then. By the turn of century, commercial fishing interests were alarmed at the decline in the fishery. But the development of an emerging region of the U.S. was not to be denied and the rest, as they say, is history. The Bonneville and Grand Coulee Dams were just the beginning of latter day development that would forever change the status of Pacific salmonids.

The incremental population declines have reached a point that the long-term, cumulative impacts have placed numerous salmon and steelhead stocks at the risk of extinction. The loss of a little habitat here, some overfishing there, a single road cut, a small amount of clearcutting, overgrazing, or water diversion may have minimum impacts as single events. In aggregate, with these effects multiplied thousands of times, you have salmon populations in the conditions they are in today. To date, three salmon stocks in the Columbia River Basin and one in California's Sacramento River have received protection under the Endangered Species Act; others have

been petitioned. The American Fishery Society has identified 214 salmonid stocks as being at risk.

The importance the Fish and Wildlife Service assigns to the stewardship of the Nation's fishery resources is reflected in our ongoing programs. These include:

- o Fish husbandry -- through our 17 National Fish Hatchery facilities and 4 fish health laboratories;
- o Habitat restoration and technical assistance -- through our Fisheries and Ecological Services field offices;
- o Research support -- from the Service's Seattle laboratory and through cooperative education and research programs at 5 universities in California, Idaho, Oregon, and Washington;
- o Funding and administering the Lower Snake River Compensation Plan; and
- o Direct financial support of States programs through Sport Fish Restoration Act funds.

This broad array of Service-led activities is extensively aligned with State, Tribal, private, and other Federal cooperators who share responsibility for Pacific salmonids.

A number of ongoing efforts highlight the activities of the Service to help reverse the decline of the salmon stocks. In California's Klamath and Trinity Rivers, specific legislation directs the Secretary of Interior to implement measures to restore the anadromous fish and fish habitats of these basins. Like many of the salmon and steelhead trout rivers in the West, these systems have suffered through a long history of human-induced and natural impacts that have led to drastic declines in fish stocks. What makes these restoration efforts effective is that the activities are guided by advisory committees with members from Federal, State, Tribal, county, and private entities.

While the Fish and Wildlife Service is the lead agency within

Interior for implementing this ecosystem approach to fish and fish habitat restoration, the Bureau of Reclamation and Bureau of Land Management have been indispensable partners in the effort. In the Trinity Basin, increased water releases have been obtained from Lewiston Reservoir and the State operated Trinity River Hatchery has been modernized. Many habitat improvement projects such as bank feathering and the development of spawning and rearing habitat in the mainstem and tributary streams have been completed. In the Klamath River Basin, local groups who craft specific restoration measures are encouraged to incorporate ecosystem and watershed restoration techniques.

An excellent example of a cooperative, ecosystem-based approach to fishery resource restoration has really just begun in Washington's Chehalis River Basin, with much credit due to the interest and efforts of Representative Unsoeld and her staff. In Fiscal Year 1993, a total of 18 habitat restoration and public awareness projects are being conducted under cooperative agreements to begin the restoration of anadromous salmonid stocks in the Chehalis River Basin.

Another program that has worked well is the Lower Snake River Compensation Plan authorized by the Water Resources Development Act of 1976. A unique aspect of this legislation was that fishery mitigation costs are paid for by the power users of the northwest. The program has gained wide acceptance by the involved States and this funding mechanism has proved effective in the timely completion of mitigation facilities.

The Fish and Wildlife Service is an active partner with other fish and wildlife agencies and the Tribes in working to increase the survival of juvenile and adult salmon during migration, restoring essential fish habitat, recommending appropriate management of fisheries harvest, design and operation of fish passage facilities and stream flow management, and producing high quality hatchery fish. Nowhere is this presence more apparent than in the Columbia River, where much of this effort is coordinated through the Columbia Basin Fish and Wildlife Authority. Important progress is also made through our participation in decision-making forums like the Pacific Fishery Management Council and the international

Pacific Salmon Commission.

The Fish and Wildlife Service continues to play a significant role in the protection of endangered species. At the request of the National Marine Fisheries Service (NMFS), the Fish and Wildlife Service guided the preparation of a biological assessment of proposed in-river fisheries for 1992 by working through the scientific advisory arm of the Federal court-ordered Columbia River Fishery Management Plan. We also designed a comprehensive biological assessment for Section 7 consultations with NMFS on 1993 operations of all Service hatcheries in the Columbia River Basin.

Fishery scientists have warned for years that habitat degradation, overharvest, poor hatchery practices, incompatible hydropower operations, and water diversion would lead to the decline of Pacific salmonids. Last year, those warnings were heard when Congress passed what we may someday come to consider one of the Nation's most significant changes in public water policy. I am referring, of course, to the Central Valley Project Improvement Act.

The Act prescribes and directs major changes in the operation of the federal Central Valley Project (CVP) for the protection, restoration, and enhancement of fish and wildlife resources and associated habitats. The Fish and Wildlife Service and the Bureau of Reclamation have established a coordinating office in Sacramento and are jointly implementing requirements of the Act divided along the lines of each agency's expertise. We are assisting Reclamation with preparation of a programmatic Environmental Impact Statement, laying the groundwork for the plan to double natural anadromous fish populations, and coordinating with involved State agencies so that when the funding is received beginning with Fiscal Year 1994, critical timeframes specified by the Act can be met.

When it comes to water policy reform in the Northwest, much can be learned from the years of struggle in California to equitably resolve these same problems. The Central Valley Project Improvement Act recognizes the changing economics of water and acknowledges the value of water in meeting environmental needs. Implementation of this Act should set the standard and provide a

long-term road map for the successful management and protection of anadromous fishery resources.

There are a number of other actions, in our view, that can and should be done to reverse the decline of Pacific salmon and effectively begin their restoration.

First, if we are to halt the population decline and avert further listing of salmon species, we must protect remaining productive habitat and restore damaged habitat. Restoration of abused habitat is a slow and measured process and we must show patience. Salmon life cycles dictate that evidence of increased fish production from habitat improvements will take at least 5 years. However, providing the best habitat possible will not guarantee the recovery of fish populations unless non-habitat factors are effectively addressed as well. Programs that are currently under way on the Klamath, Trinity, and Chehalis Rivers may take awhile but we are confident that they will show the way.

Second, a more holistic, inclusive, and biologically conservative approach to fish restoration needs to be taken. Fish restoration on the west coast should not be piecemeal, but encompass the entire region. The continued commitment and leadership of the Department of Interior should prove an effective driving force in expanding existing and forging new partnerships with other Federal, State, Tribal, public, and private entities at the regional and local levels. To ensure that this level of coordination and cooperation takes place, our West Coast Fisheries Coordinator has held numerous meetings among the myriad of government entities and private groups to develop a process for creating watershed-based salmonid protection and restoration strategies. We are also assisting the States and Tribes in developing a comprehensive, detailed database that will allow us to monitor and evaluate the status of individual stocks and make credible, testable decisions.

Third, many Tribes have fishing rights to Pacific salmon and Indian reservations contain important watersheds and miles of productive salmon streams. As do State and Federal agencies, the tribes participate as voting members on the Pacific Salmon Commission and other shared resource management decision-making forums. The

Service and Tribes are completing a Native American Policy that establishes formal cooperative relationships with Tribal governments. Native American leaders from across the country have had significant input into this policy. We need to recognize the importance of Native American culture, management capabilities, fish and wildlife resources, and considerable land base in all watershed restoration activities. In short, we must expand upon our existing cooperative partnerships with Native Americans.

Finally, we note that an ecosystem-based approach to restoring our anadromous fisheries will require closer attention to and cooperation in the management of land uses in our watersheds. The elimination of riparian habitat, streambank erosion, and siltation are all serious problems. The technology and management measures necessary to correct the problems are available and implementable. We must build on the renewed interest and concern stimulated by the recent Forest Conference to take these measures to restore Northwest watersheds.

There is the potential to implement restoration efforts in a manner that creates new jobs throughout the region. Short-term employment can use the skills of displaced timber workers to rehabilitate previously degraded fisheries habitat and the restoration of fish runs can support quality longterm jobs. The President's Plan is extraordinary in its commitment to an ecosystem approach and fully recognizes the importance of riparian corridors. It is also exemplary in its promotion of cooperation among Federal agencies to work with private industry for effective implementation.

This concludes my remarks. Again, I thank the Committee for calling for a hearing at this critical juncture in the solution of these issues and thank you for the opportunity to present our views. I'll be happy to answer any questions you may have.

The Role of the Washington Department of Fisheries (WDF)  
in the Protection and Recovery of Pacific Salmon

Testimony of WDF Presented to  
the U.S. House of Representatives  
Committee on Merchant Marine and Fisheries

by  
Robert Turner, Director  
August 10, 1993

MR. CHAIRMAN: I want to thank you and the Committee both for your interest in the Northwest's tremendous fishery resource and for the opportunity to present the Department of Fisheries' views on the critical topic of maintaining and recovering healthy salmon populations and watersheds along the Pacific coast. These resources are a cornerstone of the economic, cultural and recreational fabric of the Pacific Northwest. An opinion poll taken several years ago identified some 90 percent of the residents of Washington as feeling an attachment to our salmon resource.

Salmon and steelhead are a "canary in the coal mine." They define a unique quality of life that many would claim is unmatched in our country -- a quality of life that is undeniably challenged by stock and habitat depletion. Wild fish resources and their habitats, in particular, must be protected and restored in order to maintain viable and healthy fisheries. Wild fish are necessary to maintain the breadth of the genetic diversity so that our grandchildren also enjoy these resources.

For our protection and restoration efforts to be successful, we must all work together. Our efforts must be carefully planned to complement each other and strengthen ongoing programs to protect healthy stocks and watersheds.

Fisheries managers, like all government agencies, have implemented dynamic public policy as it has grown and matured through the year. We have been trying to adapt to the development of hydroelectric facilities, to substantial timber harvest from river basins and riparian areas, and to an increased awareness of the limits on harvest capacity of the resource.

Through all these changes to public policy, many fish stocks remain relatively healthy. Naturally reproducing populations still account for over half the total salmon production originating from Washington's watersheds. Nevertheless, most stocks experience periodic problems and many wild stocks are significantly depleted.

These depressed stocks command our attention.

As fishery managers, the Department and tribal governments now face the joint challenges of accommodating growth and development in a manner that protects our

resources while increasing concern about wild populations and genetic diversity requires us to place significant resources into restoration of depressed stocks. In the meantime, harvesters dependent on the resource for use and enjoyment suffer the double sacrifice of constrained fisheries to protect weak stocks and budget-induced hatchery closures.

Fish survival is affected by a wide variety of factors. Certainly harvest rates on some wild stocks may be incompatible with healthy levels of sustainable natural production. And hatchery programs have generated much public debate, ranging from views that fish culture represents the future salmon in the region, to beliefs that hatcheries are the primary reason that many wild stocks have become depleted. While our views fall in between these extreme perspectives, two things are clear.

First, harvest management and hatchery production are technical fields fish managers know something about, but clear public policy must be established to provide guidance to managers in governing these activities.

Second, it is clear that improved and better coordinated management of habitat protection, harvest management and hatchery production programs will be the key to designing comprehensive strategies to maintain and restore wild stocks and the region's important economies and public values they support.

This challenging landscape represents the impetus for the Department, in concert with the Washington Department of Wildlife and Western Washington Treaty Indian Tribes, to jointly develop and implement a Wild Stock Restoration Initiative for the state's salmon and steelhead resources. The Initiative has two major thrusts: the hands-on recovery of depressed populations and the development of a comprehensive salmon management policy with which all future actions must be consistent.

The first phase of the restoration Initiative, a straight-up inventory of all salmon and steelhead populations in the state, is complete, and its extensive technical appendices will be done this summer. Attached to my testimony is a summary of this report, the Salmon and Steelhead Stock Inventory (SASSI).

This month, the Department and the tribes are beginning Phase II of the recovery Initiative -- the identification of restoration priorities.

We feel confident the restoration Initiative will produce comprehensive management approaches and a reasoned response to ESA petitions should they occur. Successful comprehensive plans also should improve long-term resource status to the point where the potential for ESA listings is eliminated.

Within the Wild Stock Initiative, we are striving to look at stock problems within an overall watershed context so that we may better define the interrelated needs of



various species and habitats within a basin. It has been our hope and intent to incorporate the wild stock restoration initiative into a coastwide effort. We stand ready and willing to do so.

These efforts, especially as the state and the tribes move from the problem analysis stage to recovery plan development, must include other state and federal agencies, landowners, land and water users, stakeholders and interested publics. We feel that the integration of stock management policy development with a systematic watershed-oriented approach to priority species/habitat maintenance and recovery will produce the comprehensive progress we must make to improve the region's future.

Director of Wildlife Curt Smitch and I have been working closely with federal representatives responsible for the so-called Option 9 response to President Clinton's call for an ecosystems approach to the forest crisis. Selection and implementation of such an ecosystems approach would, at long last, require coordination of land management activities and fish restoration efforts. Obviously, significant federal involvement is both required and desired. We are talking to the federal representatives about the need for a unified, consistent and supportive federal presence in order for our efforts to progress and succeed. I urge the Committee to support an ecosystems response to the forest crisis and recognize its vital link to salmon recovery.

I also believe that the initiative will contribute to efforts of the United States through the Pacific Salmon Commission to assure Canada that we are responsibly managing the productivity of our stocks, stocks upon which we jointly depend. I am convinced that Canada will contribute meaningfully to a coastwide strategy only when it knows that we are doing our part as well.

As the second thrust of the Wild Stock Initiative, we are developing broad salmonid stock management policy for the state that will establish a proper priority for wild stocks. All current species and watershed management goals, objectives and strategies will be reviewed for consistency with the new policy and needed changes will occur.

The policy, which also has now been formally mandated by the Washington State Legislature, will be developed with involvement from the tribes, other natural resource management entities, various stakeholders and the public. It also will be adopted under a process that includes formal environmental review to meet legal and sound public policy obligations.

I hope the policy becomes part of a major regional vision for successful land and water use management that provides the habitat "futures" critically needed for salmon as well as other wildlife and fish species. Certainly the President's Forest Management Plan for the Pacific Northwest provides an important foundation for this vision, especially as related to strategies on federal forest lands. If we can expand this

starting point toward defining priority species and habitat relationships for entire basins, we can then begin creating a more certain economic and natural resource environment. Long-term natural resource health will provide local industries and governments a road map for managing risk and opportunity.

We must quickly organize to meet these challenges. I made the observation the other day in a meeting with tribal managers that the work we are required to do is not the work we would prefer to do. We are a group of fisheries biologists skilled at harvest management, stock assessment and artificial production. However, most of our time and concern are focussed on forest practices, urban growth management, agricultural practices and hydro-electric operations. We are committed to work with the economic sectors to ensure our long-term success.

Mr. Chairman, I do not want to leave the Committee with the impression that we are all vision, policy development and puffery. In addition to developing broad approaches for protection and restoration, we also have made important, specific progress toward restoration and recovery in a number of watersheds. For example, we have been significantly involved in Snake River recovery planning and responses. Our Lyons Ferry fall chinook program has been key to preserving and protecting a genetically pure strain of Snake River fall chinook that otherwise would have been subject to significant genetic impacts from non-local hatchery stocks straying into the stock's natural spawning areas. This hatchery program will provide important options for supplementing the stock in its natural habitat while critical flow and passage issues are being resolved in the basin. We have also taken great care to design and implement hatchery mitigation programs for the lower Snake River and upper Columbia River that have as a primary objective sustaining naturally spawning populations.

In the Puget Sound region the state, tribes and various affected parties have active restoration programs ongoing in the Nooksack, Dungeness and White River basins. These programs have focussed on critical stocks of spring chinook salmon and their habitats. The White River program has taken a stock close to extinction and successfully increased numbers to the level where reintroductions into the watershed are now being pursued. In all these programs the state and tribes' Wild Stock Initiative is providing the impetus for broadening efforts to a full range of species and habitats within these and other priority basins. The major impediments to expanded long-term success, frankly, are the lack of adequate federal funding support for priority restoration programs and absence of strong federal support and involvement in contributing to resolution of land and water use conflicts.

While many other examples of specific accomplishments exist, I believe this brief overview demonstrates the Department's commitment and dedication to salmon and watershed recovery and restoration. The challenges are great, however, and we look forward to additional support from Congress and the Administration to assist the state and tribes in leading Washington on a path into a much brighter future for its natural resources and citizens.

Thank you.



Northwest Indian  
Fisheries Commission



Washington  
Department of Fisheries



Washington  
Department of Wildlife

### First Step to Recovery

## SUMMARY: 1992 SALMON AND STEELHEAD STOCK INVENTORY (SASSI)

### WHAT IS SASSI?

The Salmon and Steelhead Stock Inventory is the first step in a process to restore all of Washington's salmon and steelhead stocks to healthy and productive levels. It is also a standardized, uniform approach to identifying and monitoring the status of Washington's naturally reproducing salmon and steelhead stocks. This inventory is a compilation of all wild stocks, and a scientific determination of each stock's status: *healthy*, *depressed*, *critical*, *unknown* or *extinct*. This report forms the basis for measuring future actions to restore stocks to a healthy, fishable status, and is a starting point that will be modified as new information is obtained. The intent is for SASSI to be a living document, regularly updated and revised as new information is available.

Fisheries managers and biologists from the Washington departments of fisheries and wildlife and from 20 tribes pooled their resources, data and efforts and put all this knowledge into one document. The result is the best available scientific treatise on the state of Washington's salmon and steelhead resources.

### WHY WAS THIS DONE?

Human population growth and development have undeniably caused a loss of salmonid stocks, spawning habitat, genetic diversity and fishing opportunity. Urban and industrial land conversion, forest and

agricultural practices, water diversions, municipal water demands and effluent and hydropower continue to reduce Washington's salmon and steelhead production. Many wild salmonid stocks have also been depleted by other forms of habitat degradation, hatchery practices and overfishing.

Recently, three salmon stocks in the Snake river have been listed under the federal Endangered Species Act. This has prompted Washington fisheries managers to critically review current conditions of Washington stocks, to identify and correct problems before they get to that point. We have learned an important lesson over the years - early intervention saves everyone money and increases the chances of recovery. If we delay, we all pay.

The overall goal of Washington's fisheries managers is to maintain and restore healthy wild salmon and steelhead stocks and their habitats, to support the region's fisheries, economies and other societal values.

### WHAT IS A STOCK?

SASSI defines a stock as a group of fish that return to spawn in a given area at the same time. They are, for the most part, reproductively isolated from other fish populations. A run of fish may comprise more than one stock.

## THE NEXT STEPS?

SASSI is the "where-we-are- now" assesment of a three-step recovery process. Fisheries specialists, with the assistance and input of a variety of concerned individuals, will develop the "where-we-want-to-go" and the "how-we-get-there" phases. An effective partnership with local governments, landowners, commercial and recreational fishers and the scientific community is required to reverse downward trends.

"How-we-get-there" will be the most difficult part, requiring that managers develop workable recovery strategies that have sufficient public support to proceed with implementation. Essential to a successful recovery effort is broad, public backing for solving wild stock problems.

Over the next several months, fisheries specialists will be assessing the public's response and concerns to this inventory. The listings of critical and depressed stocks and their habitat needs will be further refined to determine priority stocks and/or watersheds. Existing federal and international management processes will be factored into establishing priorities and in developing

approaches. Current habitat, harvest and hatchery management objectives and strategies will be critically reviewed. Public review and involvement is a key ingredient to success.

The short time schedule did not permit including an assessment of hatchery stocks in the inventory. This, and a more detailed evaluation of hatchery and wild stock interactions, will be completed during 1993.

Much recovery work is already underway, and additional wild stock recovery programs for priority stocks and habitats will begin soon. Specific restoration actions may include habitat restoration, modification of hatchery practices, captive broodstock projects and new harvest management strategies. The cooperation of local governments (under the Growth Management Act) to strengthen watershed and riparian protection is mandatory.

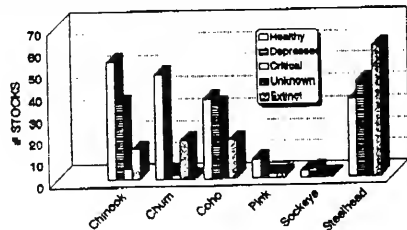
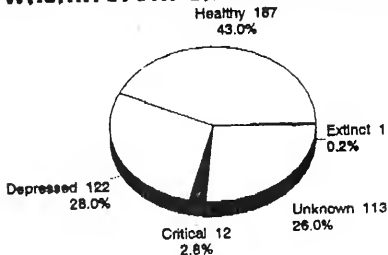
Regardless of which specific habitat, harvest and hatchery strategies are used for a given recovery plan, an effective evaluation will be required. Managers must determine if the medicine is helping or hurting.

## WHAT WAS FOUND?

This inventory identified a total of 435 stocks of salmon and steelhead in Washington. Of these, 187 stocks (43%) were judged to be healthy, although production levels or genetic health may still be a concern. Twelve were determined to be in critical shape, needing immediate attention, 122 were depressed and the status of 113 stocks is unknown.

	HEALTHY	DEPRESSED	CRITICAL	UNKNOWN	EXTINCT	TOTAL
Chinook	54	35	5	14		108
Chum	48	3	2	18	1	72
Coho	37	34	1	18		90
Pink	9	2	2	2		15
Sockeye	3	4	1	1		9
Steelhead	36	44	1	60		141
<b>TOTAL</b>	<b>187</b>	<b>122</b>	<b>12</b>	<b>113</b>	<b>1</b>	<b>435</b>

## WASHINGTONS SALMON AND STEELHEAD STOCK STATUS



## WHAT ARE THE CRITICAL STOCKS?

*Critical stocks are those that have declined to the point that the stock is in jeopardy of significant loss of within-stock diversity, or in the worst case, extinction.*

These are:

Asotin Creek - spring chinook  
 Baker River - sockeye  
 Deer Creek - summer steelhead  
 Discovery Bay - coho  
 Discovery Bay - summer chum  
 Dungeness River (Lower) - pink  
 Dungeness River - spring/summer chinook  
 Elwha River - pink  
 Hood Canal - summer chum  
 Nooksack, North Fork - chinook  
 Nooksack, South Fork - chinook  
 White (Puyallup) River - spring chinook

## WHAT ARE THE DEPRESSED STOCKS?

This inventory identified 122 depressed stocks: stocks where early intervention may keep them off the critical list. *A depressed stock is one whose production is below expected levels, based on available habitat and natural variations in survival rates, but above where permanent damage to the stock is likely.* The management intent is to restore these stocks to fishable levels.

### PUGET SOUND AREA

Cedar River - sockeye  
 Dewatto River - coho, winter steelhead  
 Discovery Bay - winter steelhead  
 Dosewallips River - pink, winter steelhead  
 Duckabush River - coho, winter steelhead  
 Dungeness River - winter steelhead, summer steelhead, coho  
 Dungeness (Upper) - pink  
 Elwha River - winter steelhead, summer steelhead  
 Hoko River - fall chinook  
 Hood Canal (NE) - coho  
 Hood Canal (SE) - coho  
 Lake Washington - winter steelhead  
 Lake Washington/Sammamish Trib. - coho, sockeye  
 Lake Washington Beach - sockeye  
 Lower Sauk River - summer chinook  
 Lower Skagit River - chinook  
 Morse Creek - coho, winter steelhead  
 Newaukum Creek - coho

Puyallup - coho  
 Pysht/Twin/Deep Rivers - coho  
 Quilcene River/Dabob Bay - coho  
 Samish River - winter steelhead  
 Sekiu/Sail - coho  
 Sequim Bay - coho, summer chum  
 Skagit River - coho  
 Skokomish River - winter steelhead  
 Snohomish River - summer chinook, fall chinook, coho  
 Stillaguamish River - summer chinook, fall chinook, coho  
 Sulatte River - spring chinook  
 Tahuya River - winter steelhead  
 Tolt River - summer steelhead

### COASTAL AREA

Clearwater River - spring chinook  
 Fall River - fall chinook  
 Ozette River - sockeye  
 Queets River - spring chinook  
 Quinault River - spring chinook  
 Salsop River - summer chinook, winter steelhead  
 Skookumchuck/Newaukum - winter steelhead

### LOWER COLUMBIA RIVER AREA

Abernathy Creek - coho, winter steelhead  
 Bonneville tribs. - coho  
 Coweeman River - coho, winter steelhead  
 Cowlitz River - coho, winter steelhead  
 Elochoman River - coho, winter steelhead  
 Germany Creek - coho, winter steelhead  
 Grays River - fall chum, winter steelhead, coho  
 Green (Tuttle) River - fall chinook, coho, winter steelhead  
 Hamilton Creek - fall chum  
 Kalama River - coho, summer steelhead  
 Lewis River - coho  
 Lewis River, East Fork - coho, winter steelhead  
 Lewis River, North Fork - summer steelhead, winter steelhead  
 Mill Creek - coho, winter steelhead  
 Salmon Creek - coho, winter steelhead  
 Skamokawa Creek - coho  
 Toutle River, South Fork - fall chinook, coho  
 Toutle River, North Fork - winter steelhead  
 Toutle River - coho  
 Washougal River - coho

### UPPER COLUMBIA RIVER AREA

American River - spring chinook  
 Asotin Creek - summer steelhead

Chewuch River - spring chinook  
 Chliewa River - spring chinook  
 Entiat River - spring chinook, summer steelhead  
 Grande Ronde - summer steelhead  
 Klickitat River - spring chinook, coho  
 Little Wenatchee River - spring chinook  
 Lost River - spring chinook  
 Methow River - spring chinook, summer chinook  
 Methow/Okanogan Rivers - summer steelhead  
 Naches River - spring chinook  
 Nason Creek - spring chinook  
 Okanogan River - summer chinook  
 Panther Creek (Wind) - summer steelhead  
 Snake River - fall chinook  
 Touchet River - summer steelhead  
 Trout Creek (Wind) - summer steelhead  
 Tucannon River - spring chinook, summer steelhead  
 Twisp River - spring chinook  
 Walla Walla River - summer steelhead  
 Wenatchee River - summer steelhead  
 White River (Wenatchee) - spring chinook  
 White Salmon River - summer steelhead, winter steelhead  
 White Salmon River (Tule) - fall chinook  
 Wind River (Tule) - fall chinook  
 Wind River - spring chinook, summer steelhead  
 Yakima River - summer steelhead  
 Yakima River (Upper) - spring chinook

## OTHER STOCK CLASSIFICATIONS

**Healthy:** While 43% of the stocks were found to be healthy, the term "healthy" covers a wide range of actual conditions, from robust to those without surplus production for harvest. Just because a stock is listed as healthy does not necessarily mean that managers have no current concerns or that production levels are adequate.

**Unknown:** For many stocks, there simply is insufficient information to rate them. Many of these are historically small populations and could be especially vulnerable to any negative impacts. There is an immediate need to collect additional information on them.

**Extinct:** SASSI does not identify stocks that have become extinct in the distant past, but one stock, the Chambers Creek summer chum, was determined to have become extinct during recent times. In addition, several possible stocks of spring chinook were not listed because of a lack of agreement on whether or not they currently exist.

## FOR MORE INFORMATION

The full SASSI report contains an annotated listing of each stock. Information on escapement ranges, distribution, origin, status, spawning sites and timing and a brief summary of the stock history is included. Copies may be viewed at many public libraries in Washington. Additional detailed information may be found in the appendices to the inventory, available soon at the Washington State Libraries. Individual copies of the Salmon and Steelhead Stock Inventory may also be obtained from: Washington Department of Fisheries, Information and Education Division, P.O. Box 43136, Olympia, WA 98504-3136.

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Montana

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Montana

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Idaho

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Idaho

# **NORTHWEST POWER PLANNING COUNCIL**

851 S.W. SIXTH AVENUE, SUITE 1100  
PORTLAND, OREGON 97204-1337

Phone: 503-222-5161  
Toll Free: 1-800-222-3355  
FAX: 503-795-3370

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**JULY 29 DRAFT-- JULY 29 DRAFT**

## **Testimony of the Northwest Power Planning Council before the Committee on Merchant Marine and Fisheries United States House of Representatives**

**August 10, 1993  
Portland, Oregon**

Good morning, Mr. Chairman and members of the Committee. My name is Ted Hallock, and I am an Oregon member of the Northwest Power Planning Council and Chairman of the Council's Fish and Wildlife Committee.

Thank you for the opportunity to testify here today and offer the Council's perspective on the decline of Pacific salmon runs. Specifically, you asked for comments on the protection and recovery of these runs.

I'd like to begin with a personal perspective. Within my lifetime, I have seen salmon runs in the Columbia River, arguably the greatest salmon river on the planet, reduced to a just a fraction of their historical abundance. And as we sit here today, despite the good work already accomplished through the Power Planning Council's Columbia River Basin Fish and Wildlife Program, salmon continue to die.

As you contemplate a coastwide salmon recovery program, I hope the example of what happened in the Columbia River Basin, and what is being done to rebuild the salmon runs, will be instructional.

We estimate that prior to 1850, when this region began its rapid development, between 10 million and 16 million salmon and steelhead returned to the Columbia each year to spawn. Today, that number is about 2.5 million, and more than 70 percent of those fish return to hatcheries. Only about 500,000 return to spawning streams.

This precipitous decline began gradually but accelerated during the last 60 years. Around the turn of the century, there was concern that Columbia River salmon soon

would be fished to extinction. Oregon and Washington were unable to agree on salmon fishing regulations for the Columbia, which forms most of the border between the two states. And the runs continued to decline. In 1908 -- this was even before my time, I'd like to add -- President Theodore Roosevelt argued for federal control of the fisheries:

"The salmon fisheries of the Columbia River are now but a fraction of what they were 25 years ago, and what they would be now if the United States Government had taken complete charge of them by intervening between Oregon and Washington. During these 25 years, the fishermen of each state have naturally tried to take all they could get, and the two legislatures have never been able to agree on joint action of any kind adequate in degree for the protection of the fisheries."

Even with presidential attention and constant nudging by Congress, it still took seven years -- it was 1915 -- before the two states finally agreed on joint fishing seasons and created the Columbia River Compact. To this day, the Compact sets fishing seasons in the lower Columbia.

But even with this attention, the salmon decline didn't slow dramatically. For example, commercial fishing took a tremendous toll, feeding canneries on the lower river that shipped Columbia salmon literally around the world.

And in the meantime, this region continued to grow -- rapidly. Following the Great Depression and the mass exodus from the Dust Bowl, the West was seen as a land of opportunity. In 1932, on a campaign stop in Portland, Franklin Roosevelt told a cheering crowd:

"The next great hydroelectric development to be undertaken by the federal government must be that on the Columbia River. It means cheap manufacturing production, economy and comfort on the farm and in the household."

And so the government accelerated dam-building on the Columbia and its tributaries. Until that point in our region's history, dams in the Columbia Basin were small and widely scattered. But no more. Thus began an era of dam-building -- it lasted into the 1970s -- with giant public works projects like Grand Coulee and Bonneville dams.

The Columbia River Basin is ideally situated for generating hydroelectric power. The Columbia is about 1,200 miles long, and from its headwaters in Canada it makes a gradual, constant descent of about two feet per mile all the way to the Pacific Ocean. Today, there are 58 hydropower dams in the Columbia River Basin. On the mainstems of the Columbia and Snake, most of the big dams have fish passage facilities, but many



do not. As a result, salmon are blocked from more than 55 percent of the habitat that was available before the dams were built.

During the last 60 years, dams took a tremendous toll on salmon runs. Earlier, I noted that we estimate salmon runs have declined from as high as 16 million adult fish per year to about 2.5 million today. Hydropower is responsible for a substantial amount of that loss. At the same time, the dams powered this region. Our regional demand for power has outgrown the dams' output today, but we still rely on them for about two-thirds of the electricity we use in the Northwest.

Columbia Basin salmon recovery is a massive effort being undertaken by the four Northwest states and a plethora of government agencies, Indian tribes and interested citizens. It will not be quick, easy or inexpensive. Salmon recovery impacts virtually everyone in the Northwest because we all depend on the Columbia River and its tributaries in some way -- electric power, navigation, irrigation, recreation, flood control, just to name a few. Our dependence harms the fishery resource.

In short, I am appalled by what recent generations -- mine included -- did to the salmon. In the name of progress, we ran roughshod over the salmon. Hydroelectric dams, salmon harvest, destruction of spawning and rearing habitat, pollution -- these all played a part. Now it is time to pay the price, as well we should, but we do not want this burden to fall disproportionately on any one use of the river and its water. With regional cooperation, we can steadily rebuild Columbia Basin salmon runs.

The Power Planning Council's Columbia River Basin Fish and Wildlife Program aims at all of these impacts. It is a comprehensive strategy to improve salmon survival at every stage of the life cycle, and as such it offers some useful parallels for a Pacific coastwide salmon rebuilding effort. Our goal is increased and biologically diverse salmon runs that can once again contribute to the region's economy.

### **The Power Planning Council's role in salmon recovery**

The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Public Law 96-501) directs the Council, at Section 4.(h)(5), to develop a program "to protect, mitigate and enhance fish and wildlife affected by the development, operation, and management of [hydroelectric] facilities while assuring the Pacific Northwest an adequate, efficient, economical and reliable power supply." And, at 4.(h)(11)(A)(ii), the relevant federal agencies are directed to take the Council's fish and wildlife program into account "...at each relevant stage of decisionmaking processes to the fullest extent practicable..." The Act also says, at 4.(h)(10)(A), that Bonneville's Administrator "...shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act ... in a manner consistent with" the Council's fish and wildlife program.

The Act also repeatedly emphasizes the need for broad public participation in Council activities. For example, Section 4.(h)(2), which deals with the Council's process in developing the fish and wildlife program, calls on the Council to request, in writing, from the federal and state fish and wildlife agencies, and from relevant Indian tribes, recommendations for measures to protect, mitigate and enhance fish and wildlife and related spawning grounds and habitat. The Act also calls on us to involve the public in our decision-making. Section 2.(3) stipulates participation by both specific groups (states, local governments, consumers, federal and state fish and wildlife agencies, Indian tribes) and the general public. Section 4.(g)(1) directs us to establish a "comprehensive" public involvement program to both inform the public and obtain public views on Council activities.

The Council oversees implementation of the fish and wildlife program. Implementation largely is the responsibility of the Bonneville Power Administration, U.S. Army Corps of Engineers, Bureau of Reclamation and the Federal Energy Regulatory Commission. We also depend on the federal and state fish and wildlife agencies and Indian tribes. Funding for this work comes from Bonneville Power Administration rates and, to a lesser extent, United States taxpayers.

### **Coordination of restoration efforts**

Following directives in the Act, the Council prepared its first Columbia River Basin Fish and Wildlife Program in 1982. The program was revised in 1984, 1987 and 1991-93. The Council completed amending the salmon and steelhead chapters of the 1987 program in September 1991. That part of the program is known as our Strategy for Salmon.

The Strategy for Salmon followed work that began in the Salmon Summit. The Salmon Summit was convened in 1990 at the direction of U.S. Senator Mark Hatfield (R-Oregon) to produce a management plan for Columbia River salmon in response to Endangered Species Act petitions on five salmon runs. The Salmon Summit, which included representatives of federal, state and tribal governments, and utilities, disbanded in April 1991 without a regional salmon recovery plan, but with agreement on certain short-term measures to aid salmon. The chief problem with the Salmon Summit was that no one was in a position to make decisions. It is very difficult to get 30-plus organizations to agree on anything under those circumstances.

In May 1991, at hearings of the Senate Appropriations Committee, Senator Hatfield and the governors of Idaho, Montana, Oregon and Washington asked the Council to take up where the Salmon Summit left off and pull together key regional representatives from the fishery, power, irrigation and navigation communities to begin the dialog necessary to address the status of these runs. At about the same time, the

National Marine Fisheries Service proposed to list Snake River chinook salmon as threatened species and Snake River sockeye as endangered species.

Clearly, if the region could not develop its own salmon recovery program, one would be developed for us. We learned that lesson with the spotted owl, when the lack of regional consensus and coordination on recovery planning opened the door to intervention by federal courts. We wanted to avoid a similar debacle for salmon.

Building on the ideas developed at the Salmon Summit, we solicited recommendations from all interested parties and then developed our salmon recovery program in four phases. First, we developed high-priority actions to bring immediate help to salmon runs --screening irrigation ditches in areas where the weakest salmon stocks spawn, for example. We completed the first phase in August 1991. Our second phase focused on improvements in the mainstems of the Columbia and Snake, and on salmon harvest. The second phase was completed in December 1991. The third phase focused on salmon habitat and production and was completed in September 1992. Those three phases comprised our amendments dealing with salmon, and collectively they are known as the Strategy for Salmon. I brought copies of Volume One of the Strategy, which is the executive summary, with me today.

Right now we are moving toward completion of the fourth phase, which deals with resident fish -- those that do not swim to the ocean -- and wildlife. We expect to complete the fourth phase in October.

So in response to your second question, the region has a comprehensive salmon recovery program in place. However, as I will discuss later in my testimony, the challenge now is to implement it fully. In addition, we made clear in developing our program that long-term measures in our program are needed to rebuild the runs and that additional measures would be needed in the future.

The Northwest Power Act is the chief impetus for our program. Specifically, the Act says, at Section 2.(6), that one purpose of the Act is to protect, mitigate and enhance fish and wildlife of the Columbia River Basin, "...particularly anadromous fish, which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation ..." The Act also says, at Section 4.(h)(8)(B), that "consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs ..."

Most electricity consumers in the Northwest get some or all of their power from the Bonneville Power Administration, which is the federal agency that sells power from the federal dams. Here in the region, Bonneville's ratepayers are assuming a large portion of the cost of our salmon recovery strategy. While you're here, you will hear different, and sometimes seemingly conflicting, figures cited as the true cost of salmon recovery in the Northwest.

Let me try to clarify some of those numbers. In 1994, Bonneville will spend about \$80 million on projects in our fish and wildlife program. In addition, the Council estimates Bonneville will have to spend another \$120 million to buy power that it cannot generate at the dams because that amount of water was used to increase river flows and provide spill to aid fish.

Bonneville also has budgeted \$40 million to reimburse other federal agencies -- the Corps of Engineers, the Bureau of Reclamation and the U.S. Fish and Wildlife Service -- for salmon recovery operations such as barging fish. And Bonneville will pay the U.S. Treasury \$65 million on money borrowed for past capital projects such as hatcheries, and fish ladders and screens at the dams.

The water in our rivers has many uses. Water diverted by irrigators won't go through dams to generate electricity, yet the cost of replacing that lost hydropower is not widely available. Similarly, certain reservoirs behind dams are kept at certain levels for recreation purposes. The cost of keeping that water in the reservoirs, rather than using it to generate power or boost flows for fish, also is not widely available. Nor do we have an understanding of the value of water held in reservoirs for flood control.

The Council believes that a true perspective on the economic impact of salmon recovery must display the power costs of all water uses.

Our fish and wildlife program recognizes that salmon recovery is a regional concern -- not just the responsibility of Bonneville ratepayers -- and that recovery actions will take place around the region and include agencies that are not funded by Bonneville. United States taxpayers contribute through the actions of federal agencies such as the Corps of Engineers, Bureau of Reclamation, Forest Service, Bureau of Land Management and the Soil Conservation Service. In 1993, for example, the federal government, through seven agencies, contributed about \$100 million to the salmon recovery effort, and the amount will be higher in 1994. Much of this will be repaid by regional ratepayers over time. Other equitable means of sharing the cost are being investigated.

### **Progress under the Columbia River Basin Fish and Wildlife Program**

The results of expenditures made for fish and wildlife under the Council's program since 1982 have been significant. Some salmon runs began a steady rebuilding in the mid-1980s, but these gains were reversed between 1989 and 1991 as the result of a number of causes. These included the El Nino weather condition, which resulted in poor ocean feeding conditions for fish, and the drought and its effect on stream flows in tributaries and the main Columbia River.

Some promising developments have occurred. For example, chinook salmon are returning to the Umatilla River, a Columbia tributary in eastern Oregon, after a 70-year

absence, and natural production of upriver bright fall chinook in the Columbia has improved. Examples of specific actions to improve survival are:

- Mainstem improvements: The program uses a number of approaches to reduce downstream and upstream salmon and steelhead mortality at and between Columbia and Snake River hydroelectric dams. These include spill for fish passage on an interim basis until bypass screens are installed and operating effectively; development, installation and improvement of permanent bypass systems at all mainstem dams; collection and transportation of juvenile fish around mainstem hydroelectric projects in barges and trucks; and increased river velocities to boost flows during the critical spring migration to the ocean. In addition, the program includes a number of measures to improve survival of returning adult fish.
- Harvest reductions: Harvest of fall chinook has been reduced. Harvest of spring and summer chinook will remain at low levels until rebuilding is under way.
- Predator control, habitat improvements: Bonneville is paying for a demonstration project to reduce the population of squawfish, a salmon predator, in the Columbia River. In addition, Bonneville has completed numerous projects to improve tributary passage and repair habitat for salmon and steelhead. These projects have occurred in the Clearwater, Deschutes, Grande Ronde, John Day, Salmon, Umatilla, Wenatchee, Willamette and Yakima river subbasins. More than 2,000 miles of stream have been improved for salmon and steelhead. Another 1,000 miles of habitat have been opened to fish production by improving passage at or removing barriers. The U.S. Forest Service cooperated in this effort.
- Yakima River: The Council program has focused especially on the Yakima River Basin. Historical run sizes of 500,000 to 600,000 adult salmon and steelhead had declined by 1980 to around 1,000 fish. Under the Council program a jointly funded series of passage projects have been completed. Participating funders include the Bureau of Reclamation, Bonneville Power Administration, state of Washington and Bureau of Indian Affairs. Fish returns are promising, with runs hovering around 10,000 fish. Similar passage and outplanting activities in the Umatilla River Basin have yielded some 20,000 fish in the ocean harvest and the first spring chinook returns to the river in 70 years. As provided in the Council program, this harvest can be counted toward the Council's doubling goal.
- Artificial production: The Council's program calls for development and operation of five artificial production facilities. These projects should produce hundreds of

thousands of adult salmon and steelhead -- they will be experiments in rebuilding natural production, not just in producing numbers of fish.

- Integrated System Plan: On June 1, 1991, the fisheries agencies and Indian tribes of the Columbia River Basin Fish and Wildlife Authority submitted the Integrated System Plan for Salmon and Steelhead Production in the Columbia River Basin to the Council. The building blocks for the Integrated System Plan are the 31 subbasin plans prepared for each of the major subbasins or watersheds of the Columbia River Basin that produce salmon and steelhead. These plans, along with other resource management plans and ideas, are the starting point for identifying actions to help specific salmon populations. Plans developed under the program, and otherwise, will be used to address other fish and wildlife species to provide a coordinated response to the need to rebuild weak stocks throughout the region, not just those petitioned for protection under the Endangered Species Act.
- Resident fish: Measures also have been implemented that have benefited resident fish -- those that do not swim to the ocean -- impacted by hydropower development. These include stocking of fish, streambank enhancement, reduction of reservoir drawdown and fluctuation (to the extent that it is harmful to resident fish) and release of water from storage dams to improve instream habitat for resident fish rearing and spawning. In addition, the Cabinet Gorge kokanee hatchery was constructed and is operated for the rebuilding of this species in Pend Oreille Lake.

Other resident fish projects have been initiated to mitigate for salmon and steelhead losses in areas that are blocked by dams -- resident fish substitutions. A rainbow trout hatchery on the Colville Reservation was dedicated in September 1989 for this purpose. In addition, a new kokanee hatchery has been completed to stock Lake Roosevelt behind Grand Coulee Dam.

Beyond that, the Council is working to ensure that salmon recovery actions do not undermine resident fish populations.

- Wildlife: In October 1989, the Council amended its wildlife mitigation rule into the fish and wildlife program. Projects are under way in all four states, but concerns are continually raised about the pace of implementation.

### **Implementation of the Strategy for Salmon**

This gives you an idea of the types of measures we have included in our fish and wildlife program to aid salmon recovery. Now I'd like to turn to implementation of

those measures by the responsible agencies, and particularly those measures in the Strategy for Salmon.

#### Bonneville Power Administration

While we are encouraged by the progress to date, we also are concerned that parts of the Strategy are being delayed or not implemented. The Council set an ambitious schedule for all of the implementors. A number of measures are behind schedule, and the Council intends to keep pressing for full implementation. Dividing the program into the stages of the salmon life cycle, our understanding of Bonneville's progress on implementation is as follows:

##### Mainstem survival

- Bonneville stored 6.45 million acre feet of Columbia River water for spring salmon flows in 1992 and did so again this year.
- Bonneville is completing funding of an interstate cooperative effort to identify new sources of water to augment spring and summer flows, but final approval of a contract to assist this effort is behind schedule by nearly one year.

##### Production

The Council's production measures emphasize revising hatchery practices to protect wild salmon populations and research into the ability to use artificial production to rebuild wild and naturally spawning populations to harvestable quantities.

- Bonneville is funding the development of standard regional hatchery practices and genetics guidelines to better protect wild salmon from competition and interbreeding with non-native stocks.
- Bonneville is funding the marking of hatchery salmon from the Snake River hatcheries to improve identification of hatchery-produced fish when they are harvested and for use in passage survival tests and other research. We would like to see this program expanded to other hatcheries in the Columbia Basin.
- Bonneville has not initiated response to the Council's measures to identify the status and trend of naturally spawning populations or to develop management policies to protect wild stocks. These measures require the cooperation of state and tribal fishery managers.

- Bonneville has not yet initiated work on the carrying capacity of the Columbia River estuary and the ocean to support wild salmon populations among the other competing species of fish. They intend to begin this work in 1994.

#### Harvest measures

- The Council sought ways to reduce fishing for weak Snake River runs while maintaining commercial, sport and tribal fisheries on stronger stocks in terminal fisheries or by developing and using selective gear. Work has begun on terminal fisheries, but not on selective gear. Both are promising means to allow harvest that focuses on strong runs and releases weak stocks so they can rebuild.
- Bonneville initiated a program in 1991 to fund law enforcement by state fish and wildlife agencies to combat illegal fishing.
- Bonneville initiated discussions among the state fishery agencies and the commercial fishing industry to further reduce interception of salmon from weak runs by reducing overall fishing levels in the ocean and the river. But the discussions broke off, and the future of the program is uncertain.

#### Habitat measures

- Bonneville has worked with the region on the cooperative habitat improvement measures the Council included in the Strategy for Salmon. It currently funds coordinators for the "model watersheds" selected by each state to test new cooperative habitat improvement approaches with private landowners and local, state and federal governments. It is funding the construction of fish screen fabrication shops in Idaho and Oregon to improve the region's capability to screen irrigation and other water diversions on salmon streams. The Strategy for Salmon calls on Bonneville to continue to participate in these programs and to fund priority habitat projects.

#### Monitoring and evaluation

- Bonneville continues to fund a regional coordinated information-gathering project to improve data collection and availability, albeit at reduced levels.

#### Implementation by other federal agencies

The Council's fish and wildlife measures depend on cooperation from and implementation by other federal agencies, including the U.S. Army Corps of Engineers, the Bureau of Reclamation, the National Marine Fisheries Service, the U.S. Fish and



Wildlife Service, the Forest Service, the Bureau of Land Management and the Federal Energy Regulatory Commission.

- The National Marine Fisheries Service has worked closely with us as it meets its Endangered Species Act obligations to develop recovery plans for the listed Snake River stocks. Regional Director Rolland Schmitten has endorsed our approach repeatedly and encouraged the region to implement our program as a foundation for the eventual provisions of the recovery plans. These plans have been delayed by complex scientific questions, and we are helping the recovery team with analysis. Although we are focused on the immediate needs of the listed Snake River salmon stocks, our program measures address the Columbia Basin more comprehensively, in part to prevent the need for future listings.

We recognize, as does Mr. Schmitten, that the Council and the Fisheries Service have different missions. Our fish and wildlife program aims to improve all salmon stocks in the Columbia Basin, while the Fisheries Service is required by law to focus more narrowly on the listed stocks.

We are working closely with the Fisheries Service to ensure that our fish and wildlife program, particularly the Strategy for Salmon, is coordinated with recovery plans for listed salmon stocks so that implementation of our measures is not delayed.

We are encouraged that Mr. Schmitten is committed to a more open process in developing recovery plans for salmon under the Endangered Species Act.

- The Corps of Engineers, Bonneville and other agencies are evaluating drawdown of the Snake River and John Day reservoirs to speed juvenile salmon migration. These evaluations continue under the review of the Council's Drawdown Oversight Committee, but the Corps recently announced it would miss the November 1993 deadline by at least six months.
- The Corps and the Bureau of Reclamation, as operators of Columbia Basin dams, cooperate with Bonneville in adjusting river operations to improve conditions for fish and wildlife. The three agencies cooperated in 1992 in implementing the Strategy for Salmon's flow measures under constraints of a severely low water year, the provisions of treaty obligations with Canada and, in the case of Reclamation, state water laws. The agencies are also cooperating in evaluating the feasibility of

drawing down the John Day and lower Snake River reservoirs during salmon migration seasons to aid juvenile salmon survival.

- The Corps, with ongoing support from Congressional appropriations, continues to install bypass systems and turbine intake screens at the mainstem dams. These improvements are scheduled for completion in 1998. With the exception of installing longer screens at the John Day Dam, which is delayed, the Corps' construction schedule meets the Council's current time line.
- The Corps has also continued to make improvements in fish transportation, holding and loading facilities, including barging fish at lower densities, as called for in the Council's program. Transportation remains one of the few immediately available tools to improve salmon survival in low water conditions, such as those we've experienced since 1987. Its effectiveness, however, is the subject of considerable debate, and the Council relies on the fishery managing agencies and tribes to determine when, and under what conditions, transportation occurs in the place of in-river juvenile migration.
- The Bureau of Reclamation has initiated water conservation and water "rental" actions to improve flows for fish, especially in the Snake River Basin. Progress has been slow in this complicated and contentious issue. Reclamation reservoir storage, under the Reclamation Act of 1902, is subject to state water laws governing uses other than for irrigation. The Council's measures call for acquisition of uncontracted storage and other water rentals from the Snake River Basin as part of the near-term improvements in migration conditions for the listed chinook stocks. State water regulations in Idaho limited Reclamation's ability to supply water for salmon migrations on the Council's schedules. We face the same in 1993. The Bureau has initiated studies of additional storage that could be used to increase flows to aid fish.
- The U.S. Fish and Wildlife Service is cooperating with other fishery managing agencies and tribes to adjust hatchery production practices to protect wild and naturally spawning populations. Pacific Northwest electricity ratepayers reimburse the Fish and Wildlife Service for its hatchery management under the provisions of the Lower Snake River Compensation Plan.
- The Forest Service and the Bureau of Land Management share responsibility for much of the remaining salmon habitat in the Columbia River Basin. These agencies agreed with the Council to make specific improvements in their land management

practices for the benefit of salmon, and the Council adopted the provisions of these agreements into the Strategy for Salmon. The Council worked to obtain additional congressional funding for this work, which was provided in the 1992 and 1993 appropriation acts.

Since the original commitments, we have had difficulty obtaining work schedules, funding requirements, or reports of completed actions from the agencies. Without this information, we cannot report progress in habitat management for salmon. Additionally, the Forest Service informed us earlier this year that it will not revise grazing allotment plans to improve salmon protection, even though the agency committed at the Salmon Summit to do so.

- The Federal Energy Regulatory Commission has responsibility for the terms of non-federal hydroelectric power licenses. In 1988, the Council adopted a "protected areas" program specifying reaches of streams and rivers that should not be developed for power generation because of their fish and wildlife values. The Commission has not licensed a generating project in a protected area, although several license applications are pending. The Strategy for Salmon depends on the Commission to enforce specific salmon-protection provisions at five public utility district dams on the mid-Columbia, Condit Dam on the White Salmon River (Pacific Power & Light Company), Brownlee Dam on the Snake River (Idaho Power Company), and the Eugene Water & Electric Board's projects on the McKenzie River in Oregon, among others.

#### Implementation by states

The Council's program relies on significant direction from the state fish and wildlife, land and water agencies. The states play a critical role in implementing the Strategy for Salmon. However, the states have extremely limited resources for their participation in regional coordination activities. Where appropriate, the Council called on Bonneville to fund travel and expenses for state agency participation in the regional planning efforts.

- The states must fund their own management actions and redirection of programs to support Columbia River salmon rebuilding programs. These activities have lagged, most significantly in developing specific rebuilding targets for weak salmon stocks and adopting hatchery and harvest policies to protect them. The Council believes additional federal assistance is warranted so that the states can productively work on coordinated regional policies for the Columbia River stocks. The legal standards

they are attempting to meet are set by the federal government, and the management actions affecting Columbia River fish span four states and, in fact, two countries.

### **Impact of Bonneville's budget cuts**

On July 2, Bonneville Administrator Randy Hardy announced rate increases of between 14 and 16 percent for the two-year period beginning this October. Four months earlier, a report indicated Bonneville might need a rate increase as high as 24 percent to meet all of its obligations, including those under the Northwest Power Act. In a letter to Hardy in late April, the Council commented, "If you defer key programs now, you may be inviting higher rate increases in the future."

We remain concerned about the impact of Bonneville's proposed budget levels on implementation of the Strategy for Salmon. Bonneville's Northwest Power Act obligations are not discretionary. Bonneville should not use these key program levels as contingency "shock absorbers" in times of financial stress, as the agency has been forced to do in the past. It is important that rates can be -- and are -- adjusted as needed to ensure that Northwest Power Act obligations are given the complete and timely attention they deserve. The Council is continuing to discuss these concerns with Bonneville.

### **The Council's program as a model for coastwide salmon recovery**

Perhaps the chief benefit the Power Planning Council brings to salmon recovery planning is a regional forum where everyone can participate in designing the program. In addition, the Council retains policy control by writing the program that emerges from the public process. As I mentioned earlier, the lack of both policy coordination and broad public participation limited the Salmon Summit.

Public participation and overall coordination are particularly important to natural resources planning, which tends to be contentious. In the case of the spotted owl, for example, the Pacific Northwest lost control of recovery planning to federal courts largely because there was no regional forum where disputes could be aired and resolved. In terms of contentiousness and impacts on people, the salmon problem has the potential to eclipse the spotted owl problem by orders of magnitude. That's because so much of what we do in the Northwest impacts salmon. Thus, public participation and central coordination are all the more important.

Our process has not been perfect. Our critics say we have done both too much and too little for the salmon, and we have been sued. But the important point is that our process, established in the Northwest Power Act, brought together all of the diverse interests to develop a salmon recovery program. Similarly, it is crucial that a coastwide salmon recovery program include a public process to bring together the diverse

interests who will want to participate. Absent federal law to direct this work, of course, progress may be difficult.

We would encourage and support a coastwide salmon recovery effort and would be happy to participate through our Columbia River Basin Fish and Wildlife Program. We will continue to update our program, and we will continue to take an interest in rebuilding coastal and lower-Columbia salmon runs. For example, our Strategy includes measures aimed at improving hatchery and production practices and reducing harvest -- measures that may be useful for a coastwide program. We also have asked the National Marine Fisheries Service to improve harvest reporting so that all of us will have a better idea of how many fish are caught, both in the Columbia and in the ocean.

You must consider how a coastwide salmon recovery program would be financed. As I mentioned earlier, the Northwest Power Act pays particular attention to anadromous fish, the impact of hydropower dams, and financing for fish and wildlife recovery actions within the Columbia River Basin. Financing alternatives for a coastwide salmon program pose an interesting challenge.

### **Impact of President Clinton's Forest Management Plan on salmon recovery**

I wish I could take credit, in the name of the Council, for the key provision of the President's forest plan that will impact salmon. It's a key provision of our Strategy for Salmon, as well. Simply put, it is that watersheds are the fundamental building blocks of the forest ecosystem, and so we must protect them if we hope to preserve our forests -- and our salmon. This is an ancient concept. According to literature I have read, it dates to ancient China, where the Emperor Ta-Yu is said to have decreed that in order to protect farmland from flooding, erosion must be controlled in forested watersheds upriver. To protect your rivers, the Emperor said, first protect your mountains.

In the Columbia River Basin, more than 50 percent of the remaining salmon habitat is in federal forests. In the Snake River Basin, the figure is 70 percent. We support the President's emphasis on sustainability, both of the economy and of the environment.

The Council's highest priority for salmon habitat is to maintain its quality and productivity. We are especially concerned about preserving or restoring streams where salmon and steelhead spawn naturally.

One objective of our strategy is to ensure that activities to improve salmon production are coordinated for each watershed. We don't see this as a planning process so much as a way of doing business. It accounts for all interests, including those of the salmon. Because about 40 percent of the remaining salmon and steelhead habitat in the Columbia Basin is bordered by private land, it is essential that public and private landowners cooperate in comprehensive efforts to manage salmon habitat

We take a watershed approach to habitat improvements in our Strategy for Salmon. The Strategy calls on Oregon, Washington and Idaho to designate "model watersheds" where this type of planning can be demonstrated. Model watersheds designated so far include the Grand Ronde River in Oregon, the Lemhi River in Idaho, a tributary of the Salmon River, and Asotin Creek, a Snake River tributary in Washington.

We are encouraged by cooperative habitat improvements already being undertaken in partnerships between private individuals and government -- particularly the U.S. Soil Conservation Service and its local districts. These projects not only improve conditions for salmon, but many of them improve agricultural practices and provide educational opportunities, too. Controlling erosion, for example, can make farmland more productive and also improve conditions for salmon by reducing the amount of silt that flows into rivers.

Our Strategy for Salmon also calls on federal and state land and water managers to improve salmon habitat by revising timber, mining and livestock management practices and protecting streamside areas where salmon spawn and rear.

### Summation

A successful salmon recovery program must meet several key tests:

- The program must be developed in public, and all interested parties must be allowed to participate. A single agency or governing body should coordinate this work and write the program.
- It must be a comprehensive program that addresses impacts at every stage of the salmon life cycle.
- It must be based on the best available science while recognizing the limitations of science, and include a rigorous program of monitoring and evaluation so that it can be altered if necessary.
- Finally, it must be fully implemented.

If this model sounds as if it is based on our Strategy for Salmon, that is what I intended.

Mr. Chairman, that concludes my remarks today. I would be happy to answer any questions.


**COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

729 N.E. Oregon, Suite 200, Portland, Oregon 97232

Telephone (503) 238-0667

Fax (503) 235-4228

**TESTIMONY OF  
 TED STRONG  
 EXECUTIVE DIRECTOR  
 COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

**BEFORE THE  
 COMMITTEE ON MERCHANT MARINE AND FISHERIES  
 UNITED STATES HOUSE OF REPRESENTATIVES  
 PORTLAND, OREGON**

AUGUST 10, 1993

Good morning Mr. Chairman and members of the Committee and thank you for providing us with the opportunity to talk to you today. My name is Ted Strong and I am the Executive Director of the Columbia River Inter-Tribal Fish Commission. The Commission was founded by the Confederated Tribes and Bands of the Yakima Indian Nation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes of the Warm Springs Reservation of Oregon and is governed by the tribes' fish and wildlife committees. The Columbia River treaty tribes appreciate your Committee's concern for Pacific salmon and its continuing interest in the role of the tribes in salmon protection and recovery. We especially appreciate the understanding you have demonstrated by the questions you asked and we trust that our responses, included with this testimony as an appendix, will assist the Committee in restoring Pacific salmon to west coast rivers and streams.

The tribes' sole effort in fisheries management is to preserve, protect and restore the salmon provided by the Creator for our ceremonial, subsistence and economic uses. To that end, the tribes' have committed to gravel-to-gravel management - meaning that, as governments, we strive to protect and restore the salmon that are the subject of our treaty fishing rights at all stages of their life cycle. Over the past several decades, we have spent millions of dollars opposing those who sought to exploit and as a consequence destroy the habitat the salmon enjoyed as their home for thousands of years.

For some, the past is a distant memory, easily dismissed. For Indian people, the past is a historical archive, useful in measuring the quality of today's decisions and assessing the impact of events and circumstances. History affords us a perfect vision of the absolute resistance to total ecosystem preservation and protection. For us, the petitions and listings of some Pacific salmon stocks under the Endangered Species Act are but some of the numerous and unfortunate consequences of the exploitation of salmon and their habitat and the resistance to the tribal philosophy of gravel-to-gravel, or as it is now popularly termed "ecosystem," management.

The lack of a shared vision and commitment to ecosystem management has sent individual agencies scurrying to find cover from the barrage of legal, social and political challenges to recent Endangered Species Act decisions. Technical level issues and staff have sometimes misled policy makers and have created much confusion and anxiety. Layers of bureaucratic studies and paper plans have been developed instead of on-the-ground solutions. However, the creation of more bureaucracies and paper plans without implementing actions are not producing fish nor restoring habitat.



The common denominator of all development activities that affect the salmon is the impact on water. Perhaps nowhere are the differences in the Indian and non-Indian ways of looking at nature more evident than in the treatment of water. The tribes have always treated water as sacred because it nourishes the life of the earth. The non-Indians, on the other hand, have used water without fully understanding that it must be treated with respect to remain powerful. There has been significant historical degradation of the waters of the Columbia Basin and the habitat that the salmon need to survive. Much of the degradation has occurred in the upper basin, above Bonneville Dam, where most of the tribal usual and accustomed fisheries are located.

The tribes are not being impatient when we demand more sensitive and effective management of the salmon's habitat. The impact of development activities on salmon habitat and other natural resources have been well-documented for over fifty years. The historic loss and continuing degradation of spawning, rearing and nursery lake habitat has drastically reduced fish production in the upper basin and has seriously diminished tribal fishing opportunities. Thus, we are very concerned that further delays in implementing needed management changes would cause further, irreversible loss of the salmon and our fisheries.

As the salmon disappeared from traditional tribal fishing areas due to non-Indian development activities, the tribes were promised some degree of mitigation through federally funded hatchery programs. However, most of these hatcheries were placed where tribal fisheries did not benefit. Now, after fifty years of assurances from the federal government that mitigation was just around the corner, Indians are being told that hatcheries were a cruel hoax.

Although the tribes never wanted the hatcheries to begin with, and only accepted them in good faith as a mitigation measure, the tribes believe that artificial production programs can and should be used as a tool to aid in the recovery of Columbia River salmon stocks. Indeed, reformation of hatchery policy has been a priority of the tribes for many years, as evidenced by our testimony before this Committee in the early 1980's. Now, as then, we are adamant that two hatchery policies must be changed:

First, Implementation of the Mitchell Act Program must be changed so that the fish are returned to the upper basin areas that were most impacted by federal hydroelectric development. Second, the federal policy of concrete-to-concrete salmon production must be changed by fixing the habitat and allowing the use of hatcheries as a tool for rebuilding natural production.

Current production policies and past efforts to mitigate resource damage continue to harm the resource and limit the exercise of treaty fishing rights as understood by the treaty makers. The tribes have recognized this problem and for over a decade have strived to gain meaningful reforms in production policies through various forums, including this Committee, by proposing sound artificial propagation techniques to restore and enhance salmon runs. Our request for reprogramming Mitchell Act hatcheries - to place the fish where they belong, and where we may share in them - have fallen on deaf ears. Our requests for scientifically sound supplementation programs have been denied. The tribes' salmon production programs have been delayed under the guise of scientific differences, while other non-Indian hatcheries have been built and placed in operation. The tribes have conserved while others have prospered. This cannot continue.

The authorities involved in the salmon recovery effort must reach agreement on how planning, funding and management are distinct but coordinated functions. They must stop hiding their unilateral decisions behind the guise of "best available science" and make salmon recovery a reality and not just another scientific experiment. It is time for the federal government to work with the tribes, in a meaningful government-to-government relationship, to immediately reverse the decline of our fisheries, to restore our runs as promised, and put our treaty reserved rights to take fish at ALL usual and accustomed places back in the forefront.

Our experience strongly suggests that for real salmon recovery to occur, there must first be a collective commitment to what "we" want, not what "I" want. The singular vision can never truly be accepted. It is our hope that we will bear witness to the creation of a shared vision. We believe that that vision must include having a spiritual reverence for the salmon that provides a place for the salmon not only in our hearts, but also in our homes.

**COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION'S  
RESPONSES TO QUESTIONS PRESENTED BY CHAIRMAN STUDD'S  
LETTER OF JULY 20, 1993**

**1. How are the activities of the tribes affecting (either positively or negatively) the recovery of salmon?**

The activities of the tribes have had little effect on the recovery of the salmon as evidenced by the continuing decline of the resource. Examination of tribal input into the various recovery issues helps shed light on the reasons why the tribes have been ineffective.

**HARVEST** - Since the 1960's, the tribes have been active in the harvest arena and much progress has been made in this area. During the early years, progress was made through the federal courts. Once their treaty fishing rights were firmly recognized by the courts, the tribes acquired the technical expertise to evaluate the various issues surrounding harvest. In order to ensure that all harvesters shared in the conservation burden, the tribes spent several years and many dollars to establish what we call the "Ocean Connection." This simply means that non-Indian harvesters in the Pacific Ocean must not catch more than the non-Indian share of the salmon bound for the upper Columbia and its tributaries. The effect of this ruling was to guarantee that the tribes' share of any harvestable fish, plus the needed spawning escapement, would escape the ocean fisheries off the shores of Oregon and Washington. In some years, the shares of both parties have been very small - as our fisheries have always been curtailed to provide for spawning escapements.

As the tribes began to be accepted at the harvest management table by the other fishery agencies, progress in settling harvest disputes moved from the courtroom to the negotiation table. Following the line of the "Ocean Connection," the tribes next worked, for nearly ten years, to finalize the United States/Canada Pacific Salmon Interception Treaty. New processes were established and the tribes once again are active participants. On the Columbia River, the tribes established themselves as active participants in the management of inriver fisheries. Like the ocean fisheries, conflicts inriver are more often handled by negotiation than litigation.

The tribes have always practiced conservation. We have fought hard to achieve integrated harvest management. Still, during the period of seeming victories in the harvest arena, the resource was continuing to dwindle. Thus, time and time again, we have done as we have been asked, and have reduced our harvests to provide for the survival of our treasured resources. We now realize that the fishers have been the only ones who have shouldered the burden of conservation.

**PRODUCTION** - The Columbia River treaty tribes began their active involvement in modern fishery management with the fish production cards stacked against them. Since the passage of the Mitchell Act in 1938 the state and federal fishery agencies had developed a basin-wide production program that continued to supply non-Indian fisheries despite the dams and habitat degradation, but at a significant cost to tribal fisheries and to the naturally-spawning salmon that they depended upon. Although the Columbia River Tribes have tried to establish their positions

regarding production, the state and federal fishery agencies have been reluctant to allow them a seat at the table. Every program attempted by the tribes has been attacked with little or no regard for the resource. The effect has been that although the tribes are allowed to plan for production, they are not allowed to implement programs. For example, for years the Yakima Nation and Nez Perce Tribe have worked within the Northwest Power Planning Council process in yet unsuccessful attempts to get tribal production projects implemented. There have been proposals, plans, studies, more studies and more plans; there is still no on-the-ground production. By contrast, it took less than one year for the Council to put the Young's Bay Project at the mouth of the Columbia River into production. The Council needs to produce real fish above Bonneville Dam, as quickly and effectively as it was able to put fish into production below the dams at Young's Bay.

**HABITAT** - Like production the tribes have been denied a seat at the habitat table. To address habitat problems, the tribes have embarked upon an ambitious program to seek protection and recovery of important natural resources and habitat - to the extent our limited resources have allowed. We are working with federal and state agencies, such as the Environmental Protection Agency, state water quality and water resources departments and the Forest Service, in an attempt to gain better protection for the salmon and the aquatic habitat they depend on. We have attempted to modify adverse federal land management activities by reviewing and commenting on forest plans but there have been no real positive results. Accordingly, the tribes were put in the undesirable position of having to file administrative appeals of 15 Forest Plans in the Columbia Basin in an effort to improve the protection of fish habitat. Unfortunately, the tribes must repeatedly insist on meaningful consultation and involvement in federal agency decision-making processes, even though these agencies are discussing and determining policies that affect treaty rights and trust resources. The Forest Service pays lip service to treaty rights but otherwise disregards them.

**HYDROPOWER AND WATER RESOURCES DEVELOPMENT PROJECTS** - Early attempts by the tribes to make changes in the operations of federal water projects occurred through litigation and resulted in small concessions to the needs of the fish. Recent attempts to make changes have been through negotiations. The tribes have participated in the numerous fora established for evaluating the impacts of Columbia River development on salmon. Endless meetings are conducted where the issues are discussed with little or no progress being made to modify the operations of the projects to benefit the fish. Despite our efforts to change operations so that the salmon receive equitable treatment, the salmon only get what is left over after all the consumptive users of water have met their needs, and minimal, albeit hard fought concessions from the power system. Because of the lack of progress, the tribes are once again looking at the litigation route to trigger the change needed to not only halt the slide toward extinction, but to actually restore the runs as mandated by our treaty rights.

2. How are the tribes coordinating restoration efforts with those of state and federal agencies? Is there an overall strategy for restoration?

There are many fora that provide for some coordination of restoration efforts among the tribes and state and federal agencies. However, it is really in only one area, harvest, that true

coordination among these entities occurs. Meaningful participation in the coordination of restoration efforts in other areas (i.e., production policies, habitat activities and water resources projects) has proven to be more difficult for the tribes. Thus, an overall coordinated strategy for restoration is lacking due to unresolved policy issues. The states, through the Northwest Power Planning Council, have a strategy. The federal agencies do not yet have a unified strategy; instead each federal agency continues to push its own program while paying lip service to the Council's program. The tribes' strategy was outlined to the Committee's staff over a year ago and is briefly described below for each of the recovery areas.

**HARVEST** - In the harvest arena, the tribes are active in all management fora. In the ocean, the tribes participate on the US/Canada Pacific Salmon Commission and the various panels established under the Treaty. The tribes actively participate in the deliberations of the Pacific Fisheries Management Council. The tribes are active participants in the harvest management processes established under the U.S. v. Oregon Columbia River Fish Management Plan. All of these fora provide for significant coordination between the tribes and the state and federal agencies. The tribes also work with the individual states on establishment of fisheries in their ceded areas. The tribes establish regulations for their respective reservations and fishing areas; these regulations are shared with the state agencies.

The overall strategy in the harvest arena is to continue to manage harvest in an open forum with continual input from all concerns. The process is open and flexible enough to respond to the vagaries of the resource. The difficulty we are now encountering is the continual attack on harvest by those groups trying to protect their own interests (i.e. hydro, grazing, timber harvest, irrigation). While the tribes closed fisheries, and forced our people to sit on the banks -with hopes of better times to come, we have seen unbridled development by those who are destroying the resource. For example, the tribes closed their summer chinook fishery in 1964 and their spring chinook fishery in 1977. During that same period of time we witnessed the construction of the four federal dams on the lower Snake River, the John Day Dam on the Columbia River, and several private dams on the Columbia and Snake. Despite the fact that for every salmon an Indian catches, the dams kill between one and two hundred salmon, our small tribal harvests are blamed for the decrease in salmon. The truth is, the dams are by far the biggest net in the river.

**PRODUCTION** - The tribes have been attempting for many years to reform production on the Columbia River. Our efforts have been directed mainly at modifying production to ensure that artificial production is used to restore the numbers and kinds of natural stocks throughout their habitat. This effort has been continually blocked by the fishery agencies as they protect their existing programs. With the exception of the tribes' efforts, there is no overall strategy for production. The fishery agencies continue to resist change in order to protect their programs and the fisheries they provide for their constituents. It also appears that the need to protect their funding plays an important part in denying the tribes a meaningful role in production. Our supplementation programs cannot succeed unless we are given a chance to make them work. For fifty years, the state and federal fishery agencies have been making all the production decisions. All we ask for is to finally have a meaningful voice in the production decision-making processes and an opportunity to implement our own programs.

**HABITAT** - The tribes have had to carry the habitat protection and restoration effort mainly by themselves. There is no overall strategy for habitat restoration. Fishery agencies will take money to improve habitat, but will do little to prevent its destruction in the first place. Moreover, site-specific habitat improvement projects favored by federal land managers have been found to be ineffective - primarily because surrounding poor land management practices continue unabated. State and federal laws and regulations have proven to be ineffective at protecting and/or restoring habitat because they are not being implemented. The U.S. Forest Service has trumpeted its adoption of the Anadromous Fish Policy Implementation Guide as being its approach for rebuilding the runs. However, aside from token actions, the Policy Implementation Guide has yet to be implemented on the ground. Attempts to coordinate restoration efforts have had very limited success. The Upper Grande Ronde River Anadromous Fish Habitat Protection, Restoration and Monitoring Plan was developed by an inter-agency technical team chaired by the Forest Service (this plan was developed in part as a response to the tribes' appeals of timber sales in the upper Grande Ronde). The purpose of the plan is to restore heavily degraded spring chinook habitat in a watershed that has since been designated as critical habitat for listed Snake River chinook. However, the Forest Service continues to propose timber salvage sales inconsistent with this plan. Through the Section 7 consultation process, NMFS has conditioned its approval of these salvage sales on compliance with the Upper Grande Ronde Plan. It is our understanding that the Forest Service is continuing to resist this. If the Forest Service is truly committed to coordinated restoration efforts, then it can promise this Committee, today, that it will conform its actions in the Upper Grande Ronde watershed with the provisions of the inter-agency technical consensus embodied in the Upper Grande Ronde Plan.

**HYDROPOWER AND WATER RESOURCES DEVELOPMENT PROJECTS** - The tribes and the state fishery agencies have worked closely in this arena. The United States Fish and Wildlife Service is also working closely with the states and tribes in attempting to modify the operations of the projects. The National Marine Fisheries Service appears to have a significant conflict of interest in securing funding for its research programs from the hydropower interests that limits its efforts in restoring the resource. The long term strategy for the operation of water resources projects is to provide passage and flows as necessary for the protection of the resource. Because of the various options available and the apparent sellout by NMFS, it has been impossible to develop an overall strategy for restoration that all fishery entities can adopt.

### 3. What progress, if any, has been made toward restoration and recovery?

If you had asked this question ten years ago, the tribes would have responded:

We are struggling to get a handle on the ocean fisheries and to that end we put our treaty rights on the line in an effort to get NMFS and the states (including Alaska) to adopt meaningful controls for ocean fisheries. Although we are still forced to constantly defend our treaty rights in federal court, we are hopeful that the Northwest Power Act and the Salmon and Steelhead Conservation Act will be catalysts for salmon restoration that will benefit everyone in the region and we are dedicated to making these processes work. We have presented detailed recommendations for recovery measures under these statutes, including changes to federal and state water and land management activities and salmon production programs.

If you had asked this question five years ago, the tribes would have responded:

We have made progress toward restoration. Harvest is now subject to comprehensive controls throughout the range of the salmon under international and regional management forums. The negotiation and court approval of the U.S. v. Oregon Columbia River Fish Management Plan promises to usher in a new era of cooperation between the tribes, the states and the federal government regarding Columbia River fisheries management. Implementation of the Power Planning Council's Fish and Wildlife Program holds great promise for the restoration of the basin's fisheries, although we believe the Corps of Engineers and Bonneville Power Administration should be more cooperative in implementing the Council's program. Implementation of Omnibus Oregon Wild and Scenic River's Act will be an important element in protection of the salmon's habitat, although we continue to be frustrated by the U.S. Forest Service's lack of commitment to water quality and salmon habitat protection and restoration. Our remaining challenge is to finally achieve meaningful reform of the basin's fish production programs - to fulfill these programs' intent of mitigating for loss of upriver salmon runs.

Unfortunately, we must respond to your question from the perspective of today's harsh reality as follows:

Whatever progress toward restoration and recovery that had been made over the past decade is now stalled and in some cases being reversed. Contrary to popular opinion, the ESA listings of upper basin, Snake River chinook and sockeye stocks are not contributing toward restoration but are instead further dividing the region. NMFS' implementation of the ESA is allowing most federal activities to go forward with only a few changes. Operations at the dams have been only slightly modified; the problem remains - salmon evolved to flourish in a system based on cold, flowing water; current conditions have been changed to a warm water system with greatly reduced flow. Unless these fundamental attributes of salmon ecology are addressed, the salmon will continue to decline. With regard to land management activities, the best that can be said is that the rate of habitat degradation on some forests has decreased slightly relative to ten years ago. In addition, NMFS' steadfast refusal to re-examine its dubious species definition and artificial propagation policies is precluding consideration of tribal recovery proposals. The impact of the region's lack of progress on tribal treaty fisheries is self-evident; now more than ever, the tribes' fisheries and the religion and culture based on those fisheries, are struggling to survive in the face of federal inaction and opposition. Tribal harvest is under constant attack, even though harvest is the only area that answers to a conservation standard and has conservation-based management. The current situation is completely unacceptable to the tribes. The status quo must change if we are to have even a chance of restoring the runs.

4. Will the President's Forest Management Plan for the Pacific Northwest, announced July 1, impact the restoration of salmon populations? If so, how?

The President's Forest Management Plan marks a significant departure from past management. For many of the watersheds west of Highway 97, the President's Plan may provide for improved management of fish habitat. Unfortunately, the President's Plan does not address the Columbia River Basin east of Highway 97, which includes the majority of the basin and all of the salmon



populations that have been listed under the Endangered Species Act. Based upon the information we currently have, it appears that the intent of the President's Plan is to maximize timber harvest, consistent with providing for the viability of the spotted owl. We are very concerned that the Administration envisions national forests east of Highway 97 as a short-term source of timber to help offset the timber harvest reductions on west side national forests. There is ample data that many east side watersheds have already been severely degraded by past logging, grazing, and mining activities. Maintenance of present levels of logging and grazing will assure the continued decline and likely listing of additional salmon populations. As was stated at the Forest Conference, maintenance of the status quo is unacceptable. Dramatic changes in management of east side national forests are essential if we are to have a chance of eventually rebuilding depleted salmon runs. Based upon extensive reviews of the technical literature, we have developed several recommendations for managing fish habitat. To properly manage and protect fish habitat, the President's Plan must provide for the following on ALL federal lands containing habitat for Pacific salmon:

- 1) Fully protect all riparian areas from removal of vegetation by roads and logging (inviolate no-cut buffers should be at least as large as those identified for the most important watersheds under Option 9);
- 2) Eliminate or sharply reduce grazing on sensitive, degraded riparian areas until the vegetation has recovered;
- 3) Implement lower impact grazing systems aimed at the rapid recovery of vegetation in all other areas;
- 4) Aggressively reduce the road mileage in most watersheds and improve the drainage on all roads that remain;
- 5) Reduce logging levels (lengthen timber rotations) and implement lower impact logging systems;
- 6) Eliminate logging and road construction in sensitive, unstable terrain; and
- 7) Prohibit logging and road construction in roadless areas.

COMMENTS ON THE MAGNUSON ACT  
Fisheries Conservation and Management Act  
International Agreement

Frank D. Dulcich, President and CEO  
The Pacific Group

I am Frank Dominic Dulcich, the President and CEO of The Pacific Group, a vertically integrated seafood company, which employs over 1200 team members in 4 states. We are family owned and provide to our team members 10% of the company's pre-tax profits via our profit sharing plan every year.

I have founded all but one of the companies, that being Pacific Sea Food. Pacific Sea Food was started by my grandfather, also named Frank Dulcich, (a Croatian immigrant) who began by selling seafood from a pushcart on the streets of Portland, Oregon over 60 years ago. Our family and many team members of our company are second and third generation. They have either fished or been involved in the processing, distribution segment since their grandparents or great-grandparents became citizens of the United States.

The Pacific Group has grown into a vertically integrated company which includes a fishing vessel, processing facilities in Alaska, Washington, Oregon and California, distribution centers in Washington, Oregon, and California, and an international marketing group that exports our fishery resource to the Pacific Rim countries and the European community.

As fishermen, processors, and distributors, we must be stewards of our great national resource. As stewards, we are responsible for sound conservation and proper management of this resource for future generations to enjoy. We must always be cognizant of the social and economic ramifications of our actions.

I will state our company's views which we believe would enhance the Magnuson Act to insure conservation of our nation's fishery resource. We believe that it is imperative that these specific changes be made to the Magnuson Act to enhance the management and conservation of our fishery resource.

The first section to be address is **Section 3. - Definitions**

**101-627**

(16) reads "The term "Large Scale Driftnet Fishing", means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one half miles or more, is placed in the water and is allowed to drift with the currents and the winds for the purpose of entangling the fish in the webbing.

We support an amendment that would change "from one and one half miles or more" to "**not more than one half mile**".

**101-627**

(21) reads "the term "optimum", with respect to the yield from a fishery, means the amount of fish, --

(A) "which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor."

We support an amendment to (A) to be changed as follows:

(A) "which will provide the greatest overall benefit to the nation, with particular reference to food production, employment, and recreational opportunities for the people of the United States."

## **Title II -- FOREIGN FISHING - INTERNATIONAL FISHERY AGREEMENT**

### **Section 201 Foreign Fishing**

#### **(i) FULL OBSERVER COVERAGE PROGRAM --**

**99-659**

(2) "The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that --

(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the exclusive economic zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being complied with;

(B) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or

(C) For reasons beyond the control of the Secretary, an observer is not available."

**We support a revision requiring observers on all foreign vessels in our waters without exception - a one hundred percent observer program for all foreign vessels.**

We cannot responsibly manage our resource with inaccurate data currently being provided to our biologists by the current sampling procedures.

If there is not a one hundred percent observer program aboard all catcher-processors and foreign catcher vessels, the catch samplings will not contain accurate information for monitoring the effects on the resource. We believe it should be a participant paid program (i.e. catcher-processor and/or catcher boat).

#### **101-267 Section 206 LARGE- SCALE DRIFTNET FISHING**

(b) FINDINGS -- The Congress finds that --

(2) the use of large-scale driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

**We support an amendment to include Antarctic and Arctic Oceans.**

#### **ADDITIONS TO THE MAGNUSON ACT**

The Magnuson Act must be amended to instruct the states to identify bottom fish nursery grounds where bottom fish spawning occurs. We need to prohibit fishing on the identified nursery grounds.

What makes us catch a resource that:

- 1) Is not yet capable of reproducing, thus destroying the future of that specific resource?
- 2) That has little or no economic benefit to our nation?

**Title III -- NATIONAL FISHERY MANAGEMENT PROGRAM****Section 301 NATIONAL STANDARDS FOR FISHERY CONSERVATION AND  
MANAGEMENT**

98-623 - It is imperative that language is added to the Magnuson Fishery Conservation and Management Act that protects the shoreside processors, seafood distributors and their employees. The Magnuson Act accomplished its specific objectives quite well since its enactment in 1978. However, with the changing economic and social coastal community interdependence on the fishery resource, coupled with the national per capita consumption of seafood, it is imperative that the United States government continue to acknowledge and support the fishermen and their families, but also acknowledge and support through the Magnuson Act, the processors and distributors that depend on this national resource for their livelihood. This significant piece of legislation cannot be exclusive of the processing and distribution families who insure that this national resource is properly processed and efficiently distributed for our nation to enjoy. According to National Marine Fisheries Service statistics, there are almost 73,000 families from the processing and distribution segment that depend upon this resource.

**This statistical information does not include the retail seafood counter employees and the restaurant wait staffs that sell and promote this national resource to the American consumer.**

It would be a serious detriment to all the families if our federal government missed this opportunity to enhance the social and economic values these families depend upon. The Magnuson Act needs to encompass the social and economic values of all seafood participants. It is imperative that this national resource benefit our entire nation without compromising the conservation and sound management practices of our fisheries.





STATEMENT OF KATE GRAHAM  
Executive Director  
AMERICAN HIGH SEAS FISHERIES ASSOCIATION

Before The  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON MERCHANT MARINE AND FISHERIES

On The Reauthorization Of The  
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

10 August 1993  
Portland, Oregon

Mr. Chair and Members of the Committee, I am Kate Graham, executive director of American High Seas Fisheries Association. Ours is an association of trawl catcher vessels, all of which are U.S. owned, built and crewed. Our members take part in a variety of groundfish fisheries in the Bering Sea, the Gulf of Alaska and along the Pacific coast. We were part of the joint venture fleet that pioneered the harvesting of groundfish in those waters. We are proud of the contribution we made toward realizing the original goal of the Magnuson Act - the Americanization of our nation's fisheries. We sell our catch to both shorebased and floating processors and are equally proud of the part we play in providing food for people both in the U.S. and around the world.

We have been able to accomplish these things because of the Magnuson Fishery Conservation and Management Act. The existence of a strong commercial fishing industry along the Pacific coast is a direct result of this farsighted legislation, and we are grateful to have the opportunity today to offer you our ideas

regarding reauthorization of the Act.

In general, we believe the fishery management system that is outlined in the Act is a good one. When it functions properly it is probably the best system in the world. Some interest groups have suggested that the Act requires major changes if our nation's fisheries are to survive into the future. This view seems to be held most often by newcomers to the process. Those of us who were pioneers in the industry have developed confidence in the Act. Having watched this system operate for many years, we have come to see that most problems stem from the frailties of human nature, rather than flaws in the legislation. Nonetheless, the structure isn't perfect, and we have some suggestions to offer that we believe would improve fisheries management.

#### Balance of Authority

One of the aspects of the Act we like best is the regional fishery management council system. We think the current balance of authority between the Secretary of Commerce and the councils is appropriate and should not be changed. Because the councils are composed of human beings, they are not infallible and do not invariably make decisions that are in the overall best interest of the resource or the nation. For this reason we want the Secretary to continue to have the ability to reject or partially reject council actions. On the other hand, we think local concerns can usually be resolved best where they occur, so we would not want the Secretary to be allowed to substitute his or her judgement for that of the councils. This check-and-balance system can work well, and we support retaining its present form.

#### Conflicts of Interest

Despite the fact that the Act assumes council members will have conflicts of interest, there is a growing public perception that these conflicts are interfering with adequate fishery management. We think the problem is largely one of perception rather than reality. We have several proposals to offer that may correct this problem.

One suggestion is to expand the section of the Act relating to financial disclosure. Currently the law requires disclosure only of financial interests in harvesting, processing and marketing activities. We propose that all interests in the fishery be disclosed - personal as well as financial. As an illustration, many councils include sportfishing representatives who have no financial interest in the fisheries, but may have an intense personal interest in an allocation between sport and commercial fishermen. As another example, an environmental representative on a council could argue that membership campaigns by his or her organization, although based on fisheries issues, don't constitute a financial interest in harvesting, marketing or processing activities.

Very few people actually ask to see council members' financial disclosure forms, even though they are readily available. This lack of knowledge contributes to the perception of conflicts where none may exist. There are several ways to resolve the problem. One is to require council members to state on the record, prior to each meeting, any interest they might have in the outcome of each agenda item, and make these statements available to the public as an attachment to the agenda. Another is to provide copies of the broad disclosure statements at each council meeting along with the other public documents available. Still another is to require the disclosures to include the percentage that the listed activity contributes toward the total income of the member or the organization s/he represents.

We do not believe that the problem of conflicts of interest should be solved by requiring abstention from voting. We know of numerous council members - both past and present - who consistently put the health of the resource above personal gain. There are also those who search for solutions that are fair to all parties, rather than those that will be of greatest personal benefit to them. We think council members that are knowledgeable about a fishery should continue to be allowed to vote on actions that affect it.

A related problem occurs when all the council members from

one state vote as a group to further the interests of their state. Because no more than a simple majority is needed to take an action, it often happens that two states will form an alliance against a third, resulting in a disproportionate distribution of benefits. In the unique case of the North Pacific Council, the Act mandates a majority of the seats for Alaskan residents so they have the statutory ability to outvote the other two states represented. This situation exacerbates the concern about conflicts of interest. We think a reasonable solution is to require a two-thirds majority for actions that result in significant allocations between sectors of the fishery. There would then be more compromises and less likelihood for extreme or controversial decisions.

#### Council Composition

We have heard it suggested that councils should have fewer active participants in the fishing industry because their vested interest makes it difficult for them to choose the long-term health of the resource over short-term personal gain; there should instead be people who are knowledgeable about fisheries but have no financial interest at stake - scientists and environmentalists are proposed as examples. It is our view that financial interests come in many forms, not all of which are immediately apparent. For instance, fishery scientists frequently work for entities, such as universities, that depend on funding from the industry to carry out research programs. Environmental groups have based their fundraising campaigns on fisheries issues. Even state government representatives can be said to have a financial interest if an action will affect the revenue their states receive, either from taxes or from jobs and personal income for residents. The Magnuson Act wisely recognizes that our nation's fisheries deserve to be managed by the most knowledgeable people available, without regard to their source of income, and we think this standard should continue.

Appointees to the councils carry a very important responsibility, and should be of the highest caliber. The Secretary has

the authority to reject recommended appointees, and a screening process to judge the ability of the candidates to meet this responsibility. We suggest Congress encourage the Secretary to use these tools more vigorously.

While the Secretary has the ultimate responsibility to ensure that the appointees are qualified for the job, the state governors should also be encouraged to exercise good judgement in the nominees they submit. Council membership should be regarded as something more than a political plum for campaign contributors. In addition, over the years an informal quota system has developed and now some council seats are viewed as "belonging" to a certain gear type or geographic area. Because governors have been reluctant to deviate from this, many council nominees are completely unsuited to the job. Unless the Secretary rejects the list, s/he must choose the best of a bad lot. We believe our fisheries deserve better than this.

#### Management Tools

The commercial fishing industry is one of the largest private employers in the nation, not only providing food but also contributing to our country's balance of trade. Our fisheries, when managed properly, are a renewable resource that will provide benefits to the country for generations to come. This cannot be achieved, however, without adequate management tools. We have several suggestions to offer that we believe will enhance our fishery management ability.

As a result of a previous reauthorization, the Act now includes a time limit for agency action on amendments to fishery management plans. There has, however, been an unfortunate byproduct to this requirement: council decisions other than plan amendments receive secondary attention by NMFS because there is no mandated deadline. Because of the need to allocate scarce staff time and resources NMFS has been forced to delay implementation of regulatory amendments even though they would further the conservation and management goals of the Act. We would like the Act modified to place regulatory amendments on the same

schedule as plan amendments.

Under current statute an emergency rule can be in effect for no more than ninety days, with an extension of no more than an additional ninety days. While in theory this appears to be enough time for a council to determine a permanent solution and for NMFS to implement it, in actual practice the period is too brief. We support a time limit for emergency rules of one hundred eighty days, and an extension of the same length if the council and NMFS are making substantial progress in achieving a settlement of the problem.

The most obvious tool that the fishery management process lacks is funding. Without adequate funds it is difficult to know whether we are being conservative or profligate in our management of fish stocks. Good ideas or important council decisions may languish until additional money can be located. We realize that public funding is becoming increasingly scarce, so we are willing to support the assessment of fees under certain conditions. One is that the money must be spent on federal fisheries programs in the region in which the fees are collected. Another is that these revenues be used to supplement, not replace, existing funds. A third is that guidelines be imposed on the use of this income to be sure that immediate research and management needs will receive priority.

It is important to keep in mind that, due to our federal budgeting process, NMFS has some degree of financial control over the councils. Although this control is not obvious, it does exist and has tended to distract NMFS from the work it was created to do - that of research and enforcement. We therefore see it as especially important that NMFS not be the agency that collects any fishing fees that are assessed. We suggest that the councils be allowed to designate some other authority for this purpose.

#### Conservation Measures

Of course the whole point of having this - or in fact any - management system is to assure the health of the fish stocks,

which in turn leads to the health of the fishing industry. One of the keys to this is adequate data, which is unfortunately sorely lacking for many fisheries.

The North Pacific Council now has in place the most comprehensive observer program in the country, and it is generating enormous quantities of data - so much, in fact, that NMFS hasn't yet had the staff time to analyze much of it. The industry has volunteered to assess ourselves a mandatory fee to pay for the costs of this program, including data analysis. Last year Congress amended the Magnuson Act to allow a levy of up to two percent of ex-vessel value to fund the program. We agreed to this in hopes that the information obtained will ensure better fisheries management.

In the jurisdiction of the Pacific Council, floating processors have voluntarily instituted one hundred percent observer coverage, and some of the shorebased processors and the boats that deliver fish to them have also taken on observers. This is an extremely expensive program, however, and one should not underestimate the impact these self-imposed costs have on the small businesses that make up the bulk of the fishing industry.

In fact, we think that illustrates the primary dilemma we face in resolving conservation concerns: all management measures impose a cost on fishermen that can be the final straw for many of the operations that are already struggling to get by. All around the coast the fishing industry is overcapitalized. New technology has given fishermen the ability to catch more fish than they used to, and the size of the fleet has expanded to the point where it's difficult for any one operation to catch enough to earn a profit - even when fish stocks are abundant. The industry is now in a precarious position; imposition of further taxes and fees increases the burden; poorly planned conservation measures could cost this country its fishing industry.

American High Seas Fisheries Association has always been a strong advocate for conservative management of our fisheries. For us, fishing isn't just a business venture - it's a way of life, and we want our children to have the same opportunities we

have had. We have consistently been strong proponents of adequate observer coverage. We are responsible for a new gear definition, to be implemented in two weeks, that should greatly reduce halibut bycatch in the pollock fishery. We convinced the fleet to institute a voluntary herring avoidance program that has been far more effective than the one that is in regulation. We have been experimenting with different net configurations to reduce bycatch in several fisheries.

One of our biggest frustrations is that the system penalizes us for doing these things. Each of these measures costs us money in lost catch and lost fishing time, as well as the equipment expense, and it puts us at a competitive disadvantage with the fishermen who choose not to take these actions. There is currently little incentive to fish responsibly other than one's own sense of what is right.

Most of the proposals that purport to be incentives are actually penalties. Some urge an allocation away from trawlers because it supposedly isn't a "clean" gear type. Others advocate further reducing the amount of prohibited species, such as salmon and halibut, we are allowed to catch. We are already subject to extensive closures of fishing grounds to protect prohibited species and more have been proposed. Each of these measures makes it more difficult for us to break even, thus increasing the proportionate financial burden. In addition, bycatch has often become an emotional issue, and the facts have sometimes been ignored when searching for a resolution. These circumstances make it harder to justify volunteering to search for more effective bycatch reduction techniques.

People continually cite the ability of the foreign fishing fleet to reduce bycatch, and conclude that we are wasteful and irresponsible for not doing the same. They overlook a critical difference between the two situations. The foreign boats were essentially operating on individual fishing quotas - when each vessel had used up its share of bycatch it had to stop fishing. The domestic fleet, on the other hand, is treated as one huge entity. The bycatch reduction efforts by one boat penalize that



boat while allowing more fishing time for the fleet as a whole. We have worked hard to create procedures to emulate the foreign program, and the North Pacific Council has agreed to both a penalty box system and a vessel incentive program. Neither have worked because of NMFS's interpretation of individual rights under the U.S. Constitution.

This situation is one of the major reasons we are strong proponents of an individual transferrable quota system. We believe that a carefully constructed program will reward the "clean" fishermen and penalize the "dirty" ones. The North Pacific Council has made great strides toward instituting an ITQ program, but much work still remains. Congress has the ability to aid this effort or stymie it. We ask that you encourage the councils to establish systems that promote individual accountability, and discourage those that require the whole fleet to shoulder the burden created by a few irresponsible fishermen.

### Conclusion

We believe the Magnuson Act provides a good blueprint for management of our nation's fisheries and that major changes are unnecessary. The system isn't perfect - it's slow and cumbersome and makes timely responses to rapidly changing conditions difficult - but it works. The suggestions for changes we have made here are simply intended to make the system work better. Our proposals can be summarized as follows:

#### \* Balance of Authority

- Retain the current balance of authority between the Secretary and the councils.

#### \* Conflicts of Interest

- Broaden the disclosure provisions to include interests that are not strictly financial.

- Require council members to state applicable conflicts on the record prior to each meeting.

- Make current disclosures available at council meetings.

- Require the disclosures to include the percentage of total income each activity represents.
- Require a two-thirds majority for actions that result in significant allocations between fishery sectors.

\* Council Composition

- Retain the current preference for active participants in the fishery for council appointment.
- Request more vigorous use of the Secretary's authority and the governors' discretion to ensure appointees of the highest caliber.

\* Management Tools

- Establish a time limit for agency action on regulatory amendments.
- Extend duration of emergency rules to one hundred eighty days, with a possible extension of equal length.
- Use money obtained by fisheries fees for programs in the region in which it was collected, for the purpose of supplementing existing funding after developing guidelines for its disbursement.

\* Conservation Measures

- Encourage programs that establish individual accountability for bycatch reduction efforts.
- Discourage programs that make all fishermen bear the burden of the irresponsible acts of a few.

We appreciate this opportunity to express our views on the Act that is the cornerstone of our industry. We will be glad to work with you further during the reauthorization process to ensure that our fisheries resources and the industry that depends on them are strong and healthy.

STATEMENT OF JOE EASLEY, ADMINISTRATOR  
OREGON TRAWL COMMISSION  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE  
ON  
MERCHANT MARINE and FISHERIES

Statement of Joe Easley  
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Mr. Chairman, members of the Committee, my name is Joe Easley, I am the Administrator of the Oregon Trawl Commission. I have been involved in fishery management issues since the late nineteen sixties. I was an advisor to the U.S. Department of State on bi-lateral negotiations with Japan, Poland and the USSR in the first half of the seventies. I served on the Pacific Fishery Management Council for eleven years, two of those years I was Chairman of the Council. I was part of the negotiation team that was negotiating with Canada on boundaries, hydrocarbons and all fish except salmon, in the late seventies. I am an industry advisor involved in negotiations with Canada on sharing of the Pacific whiting stock at present. I am also Chairman of the Commercial Fishing Industry Vessel Advisory Committee that is working with the Coast Guard on fishing vessel safety. I was an owner and operator of fishing vessels for twenty five years.

I do not believe that the Magnuson Fishery Conservation and Management Act needs a great deal of change. I will try to answer some of the cries I have heard raised about what a failure the act is.

1). As far as conversation is concerned the Secretary of Commerce has all the tools to hold the Council's feet to the fire if he has the will. To try to hold every fishery to the same narrow definition will only bring chaos to the fisheries of the United States.

2). Conflict of interest is another one getting a big play in some corners. Every one has conflicts of interest, it just depends on how you look at it. Even the States have conflict of interest when it comes to how a resource is harvested and in our area the States also have a money conflict because they all collect landing fees. The so called conservation organizations also have a conflict of interest, many of them are using their rhetoric as a fund raising method as much as anything. The law already requires disclosure of any interest a member might have related to fishing. I know what the interests of the members of the Pacific Fishery Management Council are without any disclosure.

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3). Dedicated seats for so called conservation organizations are not called for. In fact I am opposed to anyone having dedicated seats on the Councils, beyond the State and Federal ones that are already there.

4). There does not need to be a definition of over fishing in the Act. The 603 guidelines already require a definition of over fishing to be included in each management plan. The Pacific Fishery Management Council has three plans and each one has a different definition of over fishing. Trying to apply one definition to over fishing, to all the fisheries would only result in one of two things, shutting down all the fisheries or be meaningless.

5) There is a lot of talk about Individual Transferable Quotas (ITQ) or Individual Fisherman Quotas. (IFQ) I would like to say that there is a need to look at the cost of such forms of management. In the present case of the Pacific Fishery Management Council which is looking at ITQ's for the sable longline and pot fishery, the estimates that have been made for enforcement alone are about 6 million dollars. At that, the enforcement people tell me they don't think they could do a good job. 6 million dollars in this fishery is about the ex-vessel value of the fishery. Who is going to pick up the cost, the Government?, the fishery?

6) Fees for the government to cover the cost of management. While we do not reject the concept of fees out of hand, we do think that there needs to be some discipline to go along with the concept. First, we believe that there needs to be a overall cap on fees that can be charged against any fishery, taking in to effect the fees charged by States. Second, we believe that the funds collected should be in a fund that can only be used for fisheries management and should be a revolving fund. Third, we believe that there needs to be a intense look at how the gathering of information, to base management on, is collected, with the thought of looking for less expensive ways to do it and if the information is actually going to be used and what for. Fourth, if fees are to be charged to the commercial fisheries, we think there should be a

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rule that the money collected is spent in the region where it is collected. Fifth, we believe that there should be a review committee made up of members from the commercial fisheries that are being charged the fee to monitor how they are being spent.

7) By-catch. We believe that every fishery is different and you can not craft a legislative solution that will fit all fisheries. If the Congress believes they need to address the issue in legislation we would urge them to require all Councils to look at the issue in the fisheries they have management plans for. All fisheries have by-catch, having took part in several different fisheries in my lifetime, I make that statement from experience. It is an area the needs to be addressed, and one of the first things that needs to be done it to develop a definition for the term "by-catch," so that we are all talking about the same thing.

I do think the Act needs tightening up as to how the Secretary treats regulatory amendments to management plans that allow for regulatory amendments. As it is at present, the Secretary can leave an regulatory amendment laying on someone's desk as long as they like. The Secretary also does not have to explain why he does not follow the Council's led on a regulatory amendment if the Secretary does not want to. I would suggest the following language.

- (1) Amend 16 U.S.C. § 1802 (1993) to incorporate a new definition as follows:

**"(23) The term "regulatory amendment" means any amendment to a regulation submitted by a Council not covered by Section 304(a)"**

Renumbering as appropriate subsequent definitions in this section.

- (2) Add to U.S.C. § 1854 (1993) the following new subsection (d), relettering subsections (d) through

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(g) as subsections (e) through (h):

**\*(d) ACTION ON REGULATORY AMENDMENTS**

- (1) After the secretary receives a regulatory amendment which was prepared by a council, the Secretary shall -
  - (A) immediately commence a review of the regulatory amendment to determine whether it is consistent with the fishery management plan, the national standards, the other provisions of this Act, and other applicable law; and
  - (B) immediately publish in the Federal Register the Council's proposed regulations for a 30-day public comment period.
- (2) (A) The Secretary shall take action under this section on any regulatory amendment which the Council characterizes as being a final regulatory amendment
  - (B) For purposes of this section, "receipt date" means the 5th day after the day on which a Council transmits to the Secretary a regulatory amendment it characterizes as a final regulatory amendment.
- (3) If the Secretary does not notify the Council in writing of disapproval or partial disapproval by the 60th day after the receipt date, a regulatory amendment will take effect and be implemented.
- (4) If, after review, the Secretary determines the regulatory amendment is not consistent with the criteria set forth in paragraph (1) (A), the Secretary shall notify the Council in writing of the disapproval or partial disapproval of the regulatory amendment. Such notice shall specify -

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- (A) the applicable law or provision of the fishery management plan with which the regulatory amendment is inconsistent;
  - (B) the nature of such inconsistencies; and
  - (C) recommendations concerning the actions that could be taken by the Council to conform such regulatory amendment to the requirements of applicable law and the fishery management plan. Such recommendations shall be accompanied by the rationale and the appropriate analysis of impacts.
- (5) If the Secretary disapproves or partially disapproves a regulatory amendment, the Council may submit a revised regulatory amendment to the Secretary.
- (6) After the Secretary receives a revised regulatory amendment, the Secretary shall immediately -
- (A) commence a review of the regulatory amendment to determine if it complies with the criteria set forth in paragraph (1) (A); and
  - (B) publish the revised regulation in the Federal Register for a 15-day public comment period.
- (7) Before the close of the 30th day after the revised date, the Secretary, after taking into account any public comments, shall complete the review and determine whether the regulatory amendment complies with the criteria set forth in paragraph (1) (A). If the Secretary determines that the revised regulatory amendment is not in compliance with such criteria, the Secretary shall immediately notify the Council of the disapproval. After notifying a council of disapproval, the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised regulatory amendment for review and



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determination under this paragraph. If the Secretary does not notify the Council in writing of the disapproval or partial disapproval by the 30th day after receipt date, a regulatory amendment will take effect and be implemented."

(3) Amend 16 U.S.C. § 1854(a)(2) to read as follows:

"(a)(2) In undertaking the review required under paragraph (1)(B), the Secretary shall-

(A) take into account only

(i) the data, views and comments received from interested persons that have been made a part of the official record submitted by a council with the fishery management plan or an amendment to a plan under paragraph (1)(A), or a regulatory amendment to a plan under subsection (d); and

(ii) any written data, views and comments received pursuant to paragraph (1)(B), which must be on the issue of consistency with the national standards contained in Section 301, other provisions of this Act and other applicable law.

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 1853(a)(6) of this title."

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As used herein, matter in **boldface type** in a section to be amended is new; new sections are in **boldface type** and enclosed by quote marks.

Thank you for the opportunity to present my thinking on reauthorization of the Magnuson Fishery Conservation and Management Act.

TESTIMONY OF  
STUART W. LOONEY  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
ROYAL SEAFOODS, INC.  
SEATTLE, WASHINGTON

BEFORE THE  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
U.S. HOUSE OF REPRESENTATIVES

Field Hearing - Portland, Oregon

August 10, 1993

Thank you Mr. Chairman and Members of the Committee. My name is Stuart Looney. I am the President and Chief Executive Officer of Royal Seafoods, Inc. I appreciate the opportunity to appear before the Merchant Marine and Fisheries Committee as you consider reauthorization of the Magnuson Fishery Conservation and Management Act ("FCMA" or the "Act").

Royal Seafoods and the North Pacific Groundfish Fishery

Royal Seafoods is a U.S. owned vertically integrated fish harvesting and processing company. It is one of the West Coast's largest dedicated whitefish manufacturing, marketing and distributing companies. We obtain virtually all of our product from our own fleet of catcher/processor vessels, the ROYAL SEA, SNOW KING and ROYAL KING. This product is further processed and packaged at our plant on the Elliot Bay waterfront in Seattle into various seafood products which are sold directly to domestic restaurants and grocery chains for consumption throughout the United States. There is a good chance that many of you have

sampled our products at Ryan's Steakhouses, Long John Silver's, Skipper's or through Jenny Craig Products to name only a few.

In a very real sense, our company has its roots in your Committee. In an early attempt to put Americans on an equal competitive footing with the world's state-of-the-art fishing fleets your Committee drafted, and Congress enacted, the "United States Fishing Fleet Improvement Act". This legislation provided partial funding to encourage the construction by U.S. citizens of vessels "of advance design . . . equipped with newly developed gear" and able "to operate in expanded area[s]."<sup>1</sup> Only two vessels -- the SEAFREEZE ATLANTIC and the SEAFREEZE PACIFIC -- were ever built under this program. Economically unsuccessful, the vessels (and Congress) were roundly criticized at the time, but in the end your foresight was correct.

It was the founders of our company who took the economic risk in 1980 to buy the SEAFREEZE ATLANTIC, to refit the vessel for North Pacific pollock and cod production and to introduce the first U.S. factory trawler to the North Pacific. The effort proved unusually successful and dozens of vessel owners have followed suit. We later acquired her sister ship, the SEAFREEZE PACIFIC -- now the ROYAL SEA -- and after the addition of extensive new processing and propulsion equipment it is the flag ship of Royal's fleet.

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<sup>1</sup> Pub. L. No. 88-498.

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I believe there is no better example of the progress that has been achieved under the FCMA than Royal Seafoods. Not only did we accept the Congressional invitation to employ the catcher/processor vessels you helped to build, but we put them into the service you told us to in the FCMA itself with its stated purpose of encouraging development of the bottom fish fishery off Alaska.<sup>2</sup> The fish we catch in our EEZ was once the exclusive domain of foreign catchers and processors. Unlike many of our competitors, our company is fully "Americanized" -- not only are we U.S. owned, we are vertically integrated with secondary processing performed here in the United States. Our markets are North American and we supply millions of American consumers with premier quality American seafood products.

While our company's story illustrates much of what is good about the FCMA, what we have experienced over the last few years dramatically demonstrates its shortcomings. In 1989, for example, our three vessels were operating 12 months per year in the EEZ. We harvested and processed approximately 110,000 metric tons of groundfish and employed 500 full and part time employees. Today, our vessels operate 2-3 months per year. Our production is down to 30,000 metric tons and our employees now number under 250.

What happened? One thing for certain is that our Olympic system of fisheries "management" has resulted in too many boats

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<sup>2</sup> 16 U.S.C. § 1801(b)(6).

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chasing too few fish. But that is not the whole story. The real answer is in a management system that refused to recognize, or at least to act on, that basic reality. Instead it pursued an inshore/offshore allocation scheme designed to prevent "preemption" of one sector by another, which in fact actually created the very preemption it purported to eliminate -- albeit in the opposite direction. With shoreside allocations significantly exceeding the historical levels of shoreside processing, the necessary consequence of dividing a finite and scarce pie was to preempt the existing at-sea processors. In the meantime, shoreside processors were introducing new vessels of unprecedented capacity and building processing facilities thereby further exacerbating the real problem of overcapitalization.

It is not, however, "sour grapes" that have brought me here today. Rather, my concerns are what we can learn from this experience to improve fisheries management in the future so that we have (1) a resource to harvest, (2) a fair and equitable system to determine who shares in that bounty and (3) some measure of predictability for capital investment. Economic allocation through ITQs or limited entry mechanisms of one kind or another will necessarily be adopted in the future. Neither the resource nor the industry can afford to do otherwise. As billions of dollars of fishery resources are divided up the temptations will be great and, quite frankly, the system we have now is not up to the job. The public will demand greater accountability, as well they should.

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Chief among my concerns are those involving actual and perceived conflicts of interest among council members charged with the stewardship of our national fisheries resources. I am not alone in these observations. A widely read series of articles and editorials in the Seattle Times have documented the problem. They characterized the councils as "monopolized by fishermen, riddled with multimillion dollar conflicts of interest that would not be tolerated in the landward, oil or timber industries". The Times called for a "seriously overdue new look" at the Act.<sup>3</sup> Even the Anchorage Daily News concluded that "We shouldn't turn federal fisheries over to fishermen whose decisions directly affect their personal fortunes" and called the council system "ethically bankrupt".<sup>4</sup> It must be clear to all that this is a problem in serious need of attention.

There are a number of ways to get at the problem, ranging from strengthening the financial disclosure requirements and adding a recusal mechanism for those who have conflicts, to restoring the original system of checks and balances envisioned by the Act's framers. Even re-examining the threshold requirements for membership on the council should be considered. But before turning to these, I want to review briefly how the Act got to its present state. Surely the authors of the Act were aware of the potential conflict of interest problems inherent in the council system they had fashioned.

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<sup>3</sup> Seattle Times, Mar. 31, 1992, at A10, col. 1.

<sup>4</sup> Anchorage Daily News, Dec. 16, 1991, at B6, col. 1.

The Evolution of the Magnuson Fishery Conservation and Management Act and the Need for Change

The authors of the FCMA did a number of things to deal with potential conflicts of interest. To begin with they created a set of National Standards against which fishery management plans were to be measured. These were intended to provide some guidelines and a meaningful set of standards to protect against abuse. This was done in part through a Secretarial review process designed as a check on the actions of the councils and their compliance with the National Standards. The authors of the Act also relied on the availability of judicial review as well as other general protections found elsewhere in federal law.

One of these protections is the Federal Advisory Committee Act (or "FACA")<sup>5</sup> which prescribes a comprehensive scheme designed to control the creation and operation of advisory committees within the Executive Branch and to ensure open meetings and public access to information.

Another basic protection is the conflict of interest provisions contained in the United States Code which prohibit federal employees from participating personally and substantially in particular matters in which they have a financial interest.<sup>6</sup>

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<sup>5</sup> 5 U.S.C. app § 1.

<sup>6</sup> 18 U.S.C. § 208.



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But if the Seattle Times and The Anchorage Daily News are right, haven't these protections failed us? Or is there really no problem after all and we are simply victims of journalistic excess?

One reason the protections of FACA have been illusory is that they were deleted from the Act in 1982 in response to the complaints of some councils that the requirements were too cumbersome when applied to the council's advisory panels and scientific and statistical committees. Sweeping broadly Congress responded by exempting everybody, including the councils themselves, even though they were apparently never asked to do so. The exemption from FACA was not unprecedented, although it was pretty unusual, for of the more than 1,000 federal advisory committees, only about 20 are fully exempt from FACA and those are primarily exempt on national security grounds.

The NOAA interpretations of the conflict of interest issues have highlighted some of the problems. In the early years after the Act was passed NOAA's general counsel concluded that council members, advisors and employees were precluded from participating in council decisions in which they might benefit personally, unless they fit within certain narrow exemptions in the conflict of interest laws.<sup>7</sup> Several years later, however, the NOAA general counsel rejected the earlier line of reasoning finding

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<sup>7</sup> NOAA Legal Opinion No. 70 (Oct. 3, 1978).

that there was an implied exemption from the federal conflict of interest statutes, but that too was limited.<sup>8</sup>

The Congressional recognition of the problem and response to the inherent tension in the Act was two-fold. First, Congress added financial disclosure requirements for the voting members and the executive director of each council.<sup>9</sup> What Congress did not do is also significant: it did not require a recusal mechanism. It was not an oversight, for your Committee Report observed that nothing in the legislation would prohibit a council from establishing such a recusal procedure nor would the council be prevented from requiring its members to identify publicly any potential conflicts of interest at its meetings.<sup>10</sup> As your Fisheries Management Subcommittee learned in response to questioning at the first of these hearings earlier this year only three of the eight councils appear to have taken any steps toward adopting these kinds of requirements.

The second Congressional response to the conflicts issues that were raised in 1985 was more puzzling. Rather than attempt to tailor a specific exemption from the federal conflicts

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<sup>8</sup> Memorandum from Marilyn G. Wagner, Assistant General Counsel for Administration to Irving P. Margulies, Acting General Counsel re: applicability of 18 U.S.C. § 208 to Regional Fishery Management Council Members and Advisory Panel Members (Dec. 23, 1983).

<sup>9</sup> Pub. L. No. 99-659.

<sup>10</sup> H.R. Rep. No. 165, 99th Cong. 1st Sess. 21 (1985), reprinted in 1985 U.S. CODE CONG. & ADMIN. NEWS 6249, 6261.

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statutes as the NOAA general counsel had found to have been implied in the statute, Congress simply exempted council members and executive directors from the federal conflicts of interest prohibition altogether. This action appears to have been utterly unprecedented for it is apparently the only example in the entire United States Code in which there has been a direct statutory waiver of the federal conflict of interest laws. While it unquestionably got the NOAA general counsel's office out of its dilemma, it did little to save the public from the consequences of conflicts of interest in these management decisions.

It is also worth mentioning a couple of other changes to the original statute along the way which have helped to reshape the system of checks and balances the authors of the Act originally had in mind. At the time the Act was enacted there was some concern as to whether the council system would survive judicial review on the grounds that it was an improper delegation of legislative authority. One of the protections against this possibility that was built into the Act was the role of the Secretary as an intermediary with the power to review and promulgate measures independently of the councils. In particular the Secretary had the discretion to hold a hearing on council action between the formulation and the implementation stages of a management plan.<sup>11</sup>

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<sup>11</sup> See Comment, Judicial Review of Fishery Management Regulations under the Fishery Conservation and Management Act of 1976, 52 WASH. L. REV. 599, 620 (1977) (authored by Christopher L. Koch).

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However, with virtually no explanation Congress simply deleted this provision from the Act in 1982.<sup>12</sup> Interestingly, when the original legislation was pending before the conference committee the House bill had a mandatory hearing requirement at the Secretarial level, whereas the Senate version had a five-member presidentially appointed review board performing a similar function. Both were dropped in conference in favor of the optional hearing provision.<sup>13</sup>

This review of the evolution of the FCMA is not intended to suggest that the original Act was perfect nor that we simply need restore its original provisions in order to solve current management problems. These changes were made to address very specific and often legitimate concerns over the past 18 years. Now, however, they have been overtaken by the more pressing need to find a rational system for allocating valuable and diminishing resources among various U.S. user groups.

What can be done? -- Specific Recommendations for FCMA Amendments

- Conflicts of Interest

As already noted, the Act requires council members and other "affected individuals" to disclose their financial

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<sup>12</sup> Pub L. No. 97-453.

<sup>13</sup> See Joint Explanatory Statement of the Committee of Conference reprinted in A Legislative History of the Fishery Conservation and Management Act of 1976, 94th Cong. 2d Sess. 91 (Comm. Print 1976).

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interests as they relate to any harvesting, processing or marketing activity in connection with a fishery over which the council has jurisdiction. Unlike other federal financial disclosure requirements, once this disclosure is made there is no requirement for the member to recuse him or herself -- no matter how directly the council member may benefit from the outcome of the issue under consideration. At a minimum, council members holding a financial interest (or representing those who do) who would derive an economic benefit from action of the council should be required to recuse themselves. Moreover, the corresponding list of statutory prohibitions and penalties should be amended to include the failure to recuse where otherwise required.

While I recognize the potential difficulties in fashioning the precise language to define the economic interest that would trigger recusal, I believe it is essential that this issue be addressed in one way or another. Recusal could be limited only to those issues where actual economic allocations are at stake, and not be required for a range of other day-to-day decisions that councils must make. I also recognize that this requirement could work to the detriment of Royal in that any fisherman council member whose interests are similar to ours would have to recuse himself thereby leaving the decision to the remaining members who may have very different interests. However, where the allocation of billions of dollars of the nation's resources are at stake, fundamental precepts of good government and

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fairness require that those who stand to benefit should not be making the decisions. Hopefully that will at least end up evening out the playing field.

A related change that could help make the existing financial disclosure requirements more meaningful would be to require that the financial interest be clearly stated for the record at the time that a particular measure affecting that interest is under discussion and is voted on. The current requirement leaves the disclosed information in a council file drawer some place, only to be discovered by the most diligent observer of the council process. Moreover, inclusion in the record would make these financial interests known to the Secretary at the same time that the council action is reviewed for compliance with the National Standards. Finally, such a requirement would make the information available to a reviewing court which should have the final word on whether council action complies with applicable law.

I would also urge the Committee to take a hard look at why the FCMA -- alone among all federal statutes -- should be exempt from the broad conflict of interest prohibitions contained in 18 U.S.C. § 208. With the fate (and temptation) of such a valuable resource in the hands of council members there should be a particularly heavy burden to justify the complete waiver of the conflict of interest laws which were designed to provide a check against these very temptations. If upon closer examination such

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a broad, blanket exemption is thought to be still warranted, the reasons should be carefully stated. One way to do that would be to draft a specifically tailored exemption as an amendment to § 208 itself. This would force a clear explanation and put the issue in the proper perspective as a matter of overall public policy.

- Restore Application of the Federal Advisory Committee Act

At the time the Act was amended to eliminate compliance with FACA, the only problem being addressed was the application of FACA to the advisory panels and to the scientific and statistical committees yet the actual amendment was so broad as to reach the councils themselves. Restoring FACA jurisdiction over the councils (but not the advisory panels and scientific and statistical committees) would allow them to function with renewed public credibility.

- New Criteria for Council Member Nominees

Rather than address the conflicts problem on a case-by-case basis as the recusal approach suggested above does, there are other alternatives. One is to step back and address the overall problem in advance before an individual conflict arises. This could be done by requiring the screening of potential council members for conflicts before they are nominated. Specifically, the Act could be amended to require that nominees be knowledgeable and experienced in the fishing industry but only so

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long as they do not currently have a financial interest in any fishery under the jurisdiction of the council to which they have been nominated.

Such an approach eliminates both the temptation and the problem. An experienced fishermen who gained that experience in a California fishery, for example, could serve on the North Pacific Council where he or she could be sure to be more sensitive to the needs and concerns of Alaskan fishermen in a way that a government official could never be. This could be done without the member being put in the impossible position, as under the existing system, of having to be an objective "steward" of the resource while simultaneously facing a decision that could significantly impact the member's own wallet.

- New Standards for Economic Allocation Decisions

In addition to strengthening the conflict of interest disclosure requirements and prohibitions when economic allocation decisions are at stake, other changes could be made to insure that these decisions are made on a more rational basis.

Because of the enormous economic consequences, one possibility to ensure broad consensus on any such plan would be to require a two-thirds affirmative vote of the council for any decision involving economic allocations or the establishment of a limited entry plan. In order to avoid gridlock, the current



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prohibition against the Secretary's development of a limited entry plan for those fisheries where the council has not acted should be removed. This would give council members the clear impetus to work out the plan among themselves, otherwise the Secretary would ultimately be free to develop his or her own plan, should the council fail to act.

Economic allocation decisions are often necessitated by the overcapitalization of a given fishery, but may not be acted on until the matter is out of control. One possible approach would be to require the Secretary to identify those fisheries that either are, or are about to be, overcapitalized and require the individual councils to develop a limited entry or other management plan to address the overcapitalization within a specified time period.

Because economic allocation decisions involve "giving away" national resources of considerable value, it is entirely appropriate, in attempting to achieve the greatest overall benefit to the nation, that the decision process acknowledge who should benefit most. One approach would be to provide an allocation priority to those entities that are controlled by U.S. citizens. In this manner the benefits of the long-awaited Americanization of the resource can be made real rather than illusory by giving a lower allocation priority to those foreign interests that have been able to maintain their inordinate

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control of our resource notwithstanding the fact that their foreign-flag vessels are gone.

If we are serious about Americanization, we should also give the American consumers of our fishery resources a place at the table. They too are properly entitled to share in the wealth of this national resource. One way to do this is to amend the definition of what constitutes "optimum yield" under the Act to expressly recognize United States consumers as a component of what is in the greatest overall benefit to the nation.<sup>14</sup>

- Strengthening the National Standards

The cornerstone set of principles, as originally conceived by the framers of the FCMA, were the National Standards together with a review process that would ensure an overall level of fairness and consistency in the way in which fishery management plans would be developed and implemented. One way this was done was to give the Secretary the customary authority to establish mandatory guidelines for the implementation of these standards. In a subsequent amendment to the Act this authority was taken away with a curious parenthetical addition which stated simply that such guidelines "shall not have the force and effect of law" -- thus gutting the cornerstone standards of the Act from any real ability to be enforced.<sup>15</sup> Imagine the impact on the

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<sup>14</sup> 16 U.S.C. 1802(21)(A).

<sup>15</sup> 16 U.S.C. § 1851(b).

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guiding principles of our country if the framers of our Constitution had added the same parenthetical to the Bill of Rights? This critical element of the system of checks and balances originally envisioned by the Act's framers should be restored so that the National Standards will be able to serve the purposes for which they were originally intended.

One of the other protections in the original Act that has disappeared over the years is the opportunity for redress should there be a need to review a council decision. The original Act gave the Secretary the discretion to initiate a hearing on the merits prior to making a final decision. At a minimum that authority should be restored. An alternative approach would be to bring back the concept of a national review board or committee, similar to that in the originally proposed Senate version of the Act. Such a body could be available in particularly limited circumstances to provide an avenue for an objective hearing. Such a review board could be modeled after the so-called "God Squad" procedure currently available under the Endangered Species Act.

- Improving Council Procedures

In an effort to safeguard my own company's interests before the North Pacific Council, I have attended virtually all of the Council's meetings over the past several years. That experience has taught me many things. There are some that may seem

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relatively minor, but would make a big difference, in my view, in the smooth functioning of the councils.

I have experienced the difficulty with which interested parties can get items on the Council's agenda and observed the manipulation of that agenda to the point where there is no effective notice of what actions the Council is about to take or when. The practical result is that everyone who has a potential interest in Council action must plan to spend the entire week or more that the Council is in session just to be able to participate in a matter of importance to that person, even if it is ultimately disposed of in a matter of minutes. This practice leads to enormous wasted resources and makes it economically impossible for many to participate who otherwise would if they just knew in advance what the Council was up to. A simple amendment to the Act could provide a mechanism for placing items on the agenda and imposing some discipline on the agenda process.

Other safeguards that I think would improve the council process include requiring a written transcript to be made at hearings and at council meetings similar to the practice observed by your committee and by other legislative and judicial bodies. This would help those who are unable to attend every day of these long meetings and would assist in judicial review of council action.

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I would also urge you to consider requiring witnesses to present their testimony and written submissions under oath and to make a statement of their interest, and their qualification to attest to the facts they are introducing into the record. This will assist the council in giving the appropriate weight to the testimony.

The Act gives the council certain extraordinary authority to promulgate emergency regulations, without the usual procedural safeguards, whether or not a fishery management plan is in place. In order to protect against the abuse of this authority (i.e. where the requested emergency action would not have survived normal review) I would suggest that all emergency actions be supported by a unanimous, or at least two-thirds vote of the scientific and statistical committee. In this way use of the emergency authority will be reserved for those instances where there is a clear and undisputed need for the action.

- Bycatch Issues

Another vexing issue that has been the source of much frustration to those of us who try to operate responsibly is the abuse of the bycatch limitations. There is no question that bycatch issues are troublesome for everyone and are in need of improvement. One relatively simple mechanism that would help to curb "dirty fishing" is to limit the amount of bycatch any one vessel can take to the same percentage of bycatch that is

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generally available for the entire target species. For example, if the total allocation for a target species is 5,000 MT with a designated bycatch of 500 MT for a subsidiary species then no more than 10% of a harvesting vessel's overall catch could be comprised of the bycatch species. In this manner the situation can be avoided where a single fishing vessel catches a disproportionate amount of bycatch thus forcing an early end to the season with much of the target species left unharvested.

This concludes my statement, Mr. Chairman. I would be pleased to answer any questions you or other members of the Committee may have. And thank you again for this opportunity to appear before you today.

Statement of  
Jay L. Rasmussen  
Director, Oregon Coastal Zone Management Association  
before the  
Subcommittee on Fisheries Management  
Committee on Merchant Marine and Fisheries  
U.S. House of Representatives  
August 10, 1993  
Portland, Oregon

Mr. Chairman and members of the Subcommittee. I am Jay Rasmussen, executive director of an organization comprised of 41 coastal local governments in Oregon, an organization of counties, cities, ports, and soil and water conservation districts. I deeply appreciate this opportunity to convey the shared concerns of Oregon coast residents and businesses over several current federal fishery management trends, particularly regarding Pacific whiting. It is a pleasure to note that Congresswoman Furse from Oregon is a member of the Merchant Marine and Fisheries Committee and has assisted in providing this field hearing opportunity.

This past year's efforts to set an allocation for the Pacific whiting fishery certainly have not given coastal residents much confidence in "our ability to effectively manage and conserve our nation's fishery resources." Let me illustrate by contrasting the two approaches to managing Pacific whiting taken by fishery management agencies for the 1993 season. The first approach is that taken by the Pacific Fishery Management Council (PFMC) which studied, discussed, considered, documented, and finally made a judicious recommendation to the U.S. Department of Commerce. The second approach is that taken by the Department of Commerce in its review, and eventually, in its disapproval of most of the Council's recommendation. Here the process foundered in confusion, secrecy, and unproductive delay. The differences in these approaches—and the economic and social trauma resulting from the Commerce Department's untimely disapproval of the PFMC recommendation—have prompted call for a reform of the process and of its governing laws. The 67th Oregon Legislative Assembly's memorial to Congress contain these recommended changes.

### **A History of the Recent Council Process and Its Results**

In July of 1990 the Pacific Fishery Management Council started its discussion on the allocation of Pacific whiting with a consideration of management measures for 1991. It then began consideration, in September of 1991, of proposals for 1992. By the time it began to discuss the 1993 season, therefore, the Council had already established a substantive process for dealing with this component of the groundfish fishery.

To prepare for the 1993 season, the Council took the following actions:

- In April of 1992, the Council reviewed its previous recommendations and the subsequent National Marine Fisheries Service (NMFS) actions. It then heard public testimony before it began the regulatory amendment process. The Council also directed an ad hoc committee to discuss whiting management issues and to provide a range of alternatives.
- Three months later, in July of 1992, the Council considered five proposals—one from each of the ad hoc committee participants—and, after testimony and discussion adopted four of these as options for analysis.
- In September of 1992, the Council received a report from its staff and its preliminary analysis of the options. It again heard hours of public testimony and considered a host of written comments from the public before adopting two major options and several sub-options for a final analysis.
- Finally, in November of 1992, the Council discussed the groundfish goals and objectives, the mandates and national standards found in the Magnuson Fishery Conservation and Management Act for groundfish management, and other policies and statutes. It reviewed anew the written comments it had received, and again heard public comments on the options. The Council also received the technical advice of its Groundfish Management Team, the recommendations of its Groundfish Advisory Subpanel, and comments from economists with the National Marine Fisheries Service. After a 9-2 vote, the PFMC sent its recommendations to the Commerce Department.

### **What Happened at the Commerce Department**

By way of contrast, Jay Johnson, Deputy General Counsel for Fisheries, Enforcement, and Regions of the National Oceanic and Atmospheric Administration told the House Subcommittee on Regulation, Business Opportunities and Technology at a June 4, 1993 hearing in Newport, Oregon, that after the National Marine Fisheries Service received the PFMC recommendation on December 22, 1992, the agencies took the following path toward a final allocation decision:

- "On February 5, 1993 the Regional Director submitted a Decision Memorandum to the Assistant Administrator proposing to disapprove the 30,000 mt reserve recommended by the Council and to publish the remainder of the Council's recommendation as a proposed rule in the Federal Register."



- "After further discussion with NMFS, NOAA, the Department, and OMB, the Assistant Administrator published a proposed rule in the Federal Register on March 18, 1993, requesting public comments on the Council's recommendation without the 30,000 mt reserve, and on several other options." The public comment period of this proposed rule ended April 1, 1993.
- "Following the public comment period, the Assistant Administrator reviewed the voluminous administrative record, including comments received during the public comment period, and came to a different conclusion than the Regional Director. The Assistant Administrator determined that the record failed to justify either the Council's recommendation or the partial disapproval recommended by the Regional Director. As a result, the Assistant Administrator withdrew approval authority from the Regional Director and recommended disapproval of two parts of the Council's original recommendation—the 30,000 mt reserve and the sliding scale formula."
- "After further discussions within the Department and at OMB, the Assistant Administrator's recommendation was not concurred by the Acting Under Secretary for Oceans and Atmosphere. The Assistant Administrator then prepared and submitted a new recommendation which was approved by the Acting Under Secretary." This final decision came on April 15, 1993—opening day of the 1993 whiting fishery.

In slightly over three months, three different views were considered within the Commerce Department. There were no public hearings and no communication with the Council. While much of this occurred during the Clinton Administration's first days in office when many positions were unfilled or temporarily filled, the ending decision still produced surprise, disappointment and anger. One approach had three years of precedence and years of successful work by the regional council; the other approach came late and reflected ever-changing federal views ever more distant from those of the region.

#### **Suggested Corrective Amendments**

Whatever the outcome of the allocation decision, the contrast between the Commerce approach and the PFMC approach suggests that at least three important areas of the Magnuson Act bear scrutiny for amendments: timeliness and efficiency of review and decision making processes; consistent involvement by Councils in the whole decision process, together with an adequate explanation of the rationale of final regulatory action; and, making decisions based on the regionally-produced record. Suggestions for improvements to the Act that will produce improvements in these areas are contained in the Oregon Legislature's Senate Joint Memorial 5.

##### **1. Timeliness and efficiency of review and decision making processes.**

Under existing law, regulatory amendments, unlike plan amendments, need not obey a ticking clock. Regardless of the allocation decision rendered by Commerce for the 1993 whiting season, a sixteenth-hour decision on the first day of fishing serves no one. It is nearly impossible for harvesters, processors and others in the seafood industry to make rational decisions when there is

great uncertainty, not only of what the decision will be, but when the action will occur.

This issue is echoed in the preamble to the Oregon Legislative memorial which states that: "Whereas the tardiness and limited duration of the Department's decision, together with its failure to adequately explain its reasons for that decision, has deprived Oregon fishing industry members of legitimate, investment-backed expectations based on the Pacific Fishery Management Council's stated goals and recommendations, has left in its wake substantial uncertainty concerning the long-term direction and stability of coastal fishery resources and has jeopardized public and industry confidence in the regional Fishery Management Council process set forth in the Magnuson Act."

This memorial suggested the following amendments to improve the timeliness and efficiency of both federal review and federal decisions, (in this and subsequent sections, matter in boldface type in a section to be amended is new; new sections are in boldfaced type and enclosed by quotation marks):

- (1) Amend 16 U.S.C. § 1802 (1993) to incorporate a new definition as follows:
 

"(23) The term **"regulatory amendment"** means any amendment to a regulation submitted by a Council not covered by Section 304(a)" Subsequent definitions in this section would need to be renumbered as appropriate.
- (2) Add to 16 U.S.C. § 1854 (1993) the following new subsection (d), relettering subsections (d) through (g) as subsections (e) through (h):
 

**"(d) ACTION ON REGULATORY AMENDMENTS**

  - (1) After the secretary receives a regulatory amendment which was prepared by a council, the Secretary shall —
    - (A) immediately commence a review of the regulatory amendment to determine whether it is consistent with the fishery management plan, the national standards, the other provisions of this Act, and other applicable law; and
    - (B) immediately publish in the Federal Register the Council's proposed regulations for a 30-day public comment period.
  - (2) (A) The Secretary shall take action under this section on any regulatory amendment which the Council characterizes as being a final regulatory amendment
  - (B) For purposes of this section, "receipt date" means the 5th day after the day on which a Council transmits to the Secretary a regulatory amendment it characterizes as a final regulatory amendment.
  - (3) If the Secretary does not notify the Council in writing of disapproval or partial disapproval by the 60th day after the receipt date, a regulatory amendment will take effect and be implemented.

2. Consistent involvement by Councils in the whole decision process as well as an explanation for the final action.

Federal oversight action that takes place largely out-of-sight of Council participants provides a fertile ground for inside-the-beltway influence peddling, real or imagined. After the open and

deliberative regional process, there are no more hearings. There undoubtedly have been and will be, however, attempts to influence the final decision in Washington.

Another glaring oversight in the 1993 whiting decision was the lack of communication among the agencies charged with deciding the allocation and the PFMC. It is obvious that despite the multiple conclusions reached by the NMFS regional director, by the Assistant Administrator for NOAA, and the Administrator's changed view in the final decision, there was little or no interchange between these parties as they reviewed the amendment and the PFMC. In fact, Commerce made no attempt to communicate with the PFMC even as it met in Portland the week before Commerce issued its final decision.

In place of consultation, the federal review process appears insular, far-distanced from the regional recommendations, and making final decisions without (1) consulting the Council, and (2) providing justification for taking action contrary to the recommendations of the Council.

Returning to the suggested amendments, the memorial next lists a provision to give the PFMC its proper consultative role in the process:

(4) If, after review, the Secretary determines the regulatory amendment is not consistent with the criteria set forth in paragraph (1) (A), the Secretary shall notify the Council in writing of the disapproval or partial disapproval of the regulatory amendment. Such notice shall specify —

(A) the applicable law or provision of the fishery management plan with which the regulatory amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such regulatory amendment to the requirements of applicable law and the fishery management plan. Such recommendations shall be accompanied by the rationale and the appropriate analysis of impacts.

(5) If the Secretary disapproves or partially disapproves a regulatory amendment, the Council may submit a revised regulatory amendment to the Secretary.

(6) After the Secretary receives a revised regulatory amendment, the Secretary shall immediately —

(A) commence a review of the regulatory amendment to determine if it complies with the criteria set forth in paragraph (1) (A); and

(B) publish the revised regulation in the Federal Register for a 15-day public comment period.

(7) Before the close of the 30th day after the revised receipt date, the Secretary, after taking into account any public comments, shall complete the review and determine whether the regulatory amendment complies with the criteria set forth in paragraph (1) (A). If the Secretary determines that the revised regulatory amendment is not in compliance with such criteria, the Secretary shall immediately notify the Council of the disapproval. After

notifying a council of disapproval, the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised regulatory amendment for review and determination under this paragraph. If the Secretary does not notify the Council in writing of the disapproval or partial disapproval by the 30th day after the receipt date, a regulatory amendment will take effect and be implemented."

3. Making decisions based on the regionally-produced record.

One further recommendation for your consideration. As I mentioned earlier, federal actions contrary to Council recommendations foster considerable anguish and mistrust when federal agencies make those decisions not only far removed from the region which will bear their consequences, but also in a manner that allows agencies to be perceived as susceptible to undue influence. This memorial suggest the following language to change the Magnuson Act provision governing amendments to the Fishery Management Plan to prohibit late additions to the record of decision:

(3) Amend 16 U.S.C. § 1854(a)(2) to read as follows:

"(a) (2) In undertaking the review required under paragraph (1) (B), the Secretary shall —

(A) take into account only

(i) the data, views and comments received from interested persons that have been made a part of the official record submitted by a council with the fishery management plan or an amendment to the plan under paragraph (1) (A), or a regulatory amendment to a plan under subsection (d); and

(ii) any written data, views and comments received pursuant to paragraph (1) (B), which must be on the issue of consistency with the national standards contained in Section 301, other provisions of this Act and other applicable law.

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 1853(a)(6) of this title."

Nothing in the suggested amendment seeks to limit appropriate review of Council recommendations by the Commerce Department. At the very least, however, reviewing agencies should be required to compile a record as open and as complete as those prepared by the Councils.

Again, I appreciate the opportunity to speak before you. A copy of Senate Joint Memorial 5 is attached to my testimony. I understand that Senator Packwood has proposed to the Senate Commerce Committee, amendments similar to those contained in the first two corrective amendments stated in this testimony.

Corrected

## A-Engrossed Senate Joint Memorial 5

Ordered by the Senate June 7  
Including Senate Amendments dated June 7

Sponsored by Senators CRASE, DWYER; Senators S. BUNN, YIM

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Memorializes Congress to *[repeal law creating Bull Run Watershed Management Unit and to reenact Bull Run Trespass Act to protect Bull Run Watershed]* amend Magnuson Fishery Conservation and Management Act procedures for review by Secretary of Commerce of Fishery Management Council decisions.

### JOINT MEMORIAL

To the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Sixty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas with the passage in 1976 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 to 1882 (P.L. 94-265) as amended, Congress set forth a comprehensive fisheries management regime to balance the interests of the nation's fishing industries, its coastal communities, its fishery resources and the interests of the states in their coastal environments; and

Whereas Congress wisely chose to delegate the responsibility for achieving that balance to the several regional Fishery Management Councils, whose proximity to the sources of biological, economic, ecological and commercial data necessary for a proper determination of an annual optimum yield best enables them to make a proper allocation of the allowable level of harvest from each coastal fishery; and

Whereas the Pacific Fishery Management Council has discharged its responsibilities under the Act in good faith and with due regard for both the rights and interests of domestic resource users, including the various segments of the fishing industry, their dependent communities and the coastal Native American tribes, and for the long term sustainability of the resource; and

Whereas with its decisions of April 15 and April 29, 1993, respecting the domestic allocation of the West Coast Pacific whiting and ocean salmon fisheries, the United States Department of Commerce has arbitrarily and capriciously substituted its own allocation formula, with no regard for the substantial evidence, reasoned judgment and sound conclusions upon which the Pacific Fishery Management Council based its recommendations to the Department; and

Whereas the tardiness and limited duration of the department's decision, together with its failure to adequately explain its reasons for that decision, has deprived Oregon fishing industry members of legitimate, investment-backed expectations based on the Pacific Fishery Management Council's stated goals and recommendations, has left in its wake substantial uncertainty concerning the long term direction and stability of coastal fishery resources and has jeopardized public and

NOTE: Matter in *boldfaced type* in an amended section is new; matter *(italic and bracketed)* is existing law to be omitted. New sections are in *boldfaced type*.

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industry confidence in the regional Fishery Management Council process set forth in the Magnuson Act; now, therefore,

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

(1) The Congress of the United States is memorialized to give effect to the proper role of regional decision-making and the Fishery Management Council process embodied in the Magnuson Fishery Conservation and Management Act by amending the Magnuson Act in the following ways:

(a) Amend 16 U.S.C. § 1802 (1993) to incorporate a new definition as follows.

"(23) The term 'regulatory amendment' means any amendment to a regulation submitted by a Council not covered by Section 304(a)."

(b) Amend 16 U.S.C. § 1854 (1993) to add the following new subsection:

"(d) ACTION ON REGULATORY AMENDMENTS

"(1) After the Secretary receives a regulatory amendment that was prepared by a Council, the Secretary shall --

"(A) immediately commence a review of the regulatory amendment to determine whether it is consistent with the fishery management plan, the national standards, the other provisions of this Act and other applicable law; and

"(B) immediately publish in the Federal Register the Council's proposed regulations for a 30-day public comment period.

"(2)(A) The Secretary shall take action under this section on any regulatory amendment that the Council characterizes as being a final regulatory amendment.

"(B) For purposes of this section, 'receipt date' means the 5th day after the day on which a Council transmits to the Secretary a regulatory amendment it characterizes as a final regulatory amendment.

"(3) If the Secretary does not notify the Council in writing of disapproval or partial disapproval by the 60th day after the receipt date, a regulatory amendment will take effect and be implemented.

"(4) If, after review, the Secretary determines the regulatory amendment is not consistent with the criteria set forth in paragraph (1)(A), the Secretary shall notify the Council in writing of the disapproval or partial disapproval of the regulatory amendment. Such notice shall specify --

"(A) the applicable law or provision of the fishery management plan with which the regulatory amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such regulatory amendment to the requirements of applicable law and the fishery management plan. Such recommendations shall be accompanied by the rationale and the appropriate analysis of impacts.

"(5) If the Secretary disapproves or partially disapproves a regulatory amendment, the Council may submit a revised regulatory amendment to the Secretary.

"(6) After the Secretary receives a revised regulatory amendment, the Secretary shall immediately --

"(A) commence a review of the regulatory amendment to determine if it complies with the criteria set forth in paragraph (1)(A); and

"(B) publish the revised regulation in the Federal Register for a 15-day public comment period.

"(7) Before the close of the 30th day after the revised receipt date, the Secretary, after taking into account any public comments, shall complete the review and determine whether the regulatory amendment complies with the criteria set forth in paragraph (1)(A). If the Secretary determines that

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the revised regulatory amendment is not in compliance with such criteria, the Secretary shall immediately notify the Council of the disapproval. After notifying a Council of disapproval, the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised regulatory amendment for review and determination under this paragraph. If the Secretary does not notify the Council in writing of the disapproval or partial disapproval by the 30th day after the receipt date, a regulatory amendment will take effect and be implemented."

(c) Amend 16 U.S.C. § 1854(a)(2) to read as follows

"(a)(2) In undertaking the review required under paragraph (1)(A), the Secretary shall --

"(A) take into account only

"(i) the data, views and comments received from interested persons that have been made a part of the official record submitted by a Council with the fishery management plan or an amendment to the plan under paragraph (1)(A), or a regulatory amendment to a plan under subsection (d), and

"(ii) any written data, views and comments received pursuant to paragraph (1)(B), which must be on the issue of consistency with the national standards contained in Section 301, other provisions of this Act and other applicable law;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 1853(a)(6) of this title "

(2) A copy of this memorial shall be sent to each member of the United States Senate and to each member of the United States House of Representatives.

TESTIMONY OF RONALD R. JENSEN

ARCTIC ALASKA FISHERIES CORPORATION

BEFORE THE

HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE

PORTLAND, OREGON

AUGUST 10, 1993



Thank you, Mr. Chairman. I am Ron Jensen and I am testifying today on behalf of Arctic Alaska Fisheries Corporation of Seattle, Washington. Arctic Alaska, a subsidiary of Tyson Foods, is the largest fishing company in the United States. We operate 31 fishing vessels, including vessels that utilize trawl, longline and pot gear to catch and process at-sea a number of species of crab and groundfish. We are a vertically-integrated seafood company with value-added processing plants in Seattle and Olympia, Washington and Duluth, Minnesota and several shoreside processing plants, including a substantial investment in a Pacific whiting plant in Newport, Oregon.

I appreciate the opportunity to testify today on reauthorization of the Magnuson Fishery Conservation and Management Act (the Magnuson Act). My comments today reflect not only the views of Arctic Alaska, but also my 40 years of experience in the seafood industry, including positions as president and chief executive officer of several major seafood companies. Also, I am a past president of the National Fisheries Institute.

In the 1980's, I served as chairman of the U.S. industry delegation that engaged in a series of meetings with the Japanese fishing industry. These negotiations grew out of an amendment to the Magnuson Act creating the so-called "fish and chips" provision.

The "fish and chips" policy provided access to fishery resources within the U.S. 200-mile zone to Japanese fishing companies. In exchange for continued fishing privileges, the Japanese government and industry agreed to certain concessions, including creating marketing opportunities in Japan for American harvested and processed products. This was the first phase of achieving the Magnuson Act goal of Americanizing our fisheries resources. And, though I was not associated with Arctic Alaska until many years later, Arctic Alaska was one of the first companies to seize the opportunities that Congress provided under the "fish and chips" policy. Francis Miller, who founded Arctic Alaska, recognized that fishing and marketing success was best achieved by employing state-of-the-art factory trawler technology. In 1983, the Pacific Enterprise entered service competing head-to-head with the foreign-flag vessels operating within the U.S. zone.

The Americanization process was underway and was completed sooner than most observers anticipated. The North Pacific fishery, which accounts for nearly 60 percent of all U.S. fish landed, is now harvested solely by U.S.-flag vessels. The foreign-flag fishing and fish processing fleet has been displaced. The at-sea processing sector, which includes factory trawlers, mothership vessels, and catcher vessels, is largely responsible for achieving Americanization so quickly. Along the way, Congress set strict limits on foreign investment in fishing companies (but not shoreside processing facilities) and established U.S. citizenship requirements for crew members. The at-sea processing sector was

held to a higher standard of Americanization than other sectors of the fishing industry, and it achieved Congress' goals.

Congress has not acted with the same vigor in developing a national fisheries policy in the post-Americanization phase. There are important conservation and management problems that require immediate attention. Specifically, Congress needs to emphasize market-based solutions to fishery management problems and restore credibility to and improve administration of the regional fishery management council process.

#### 1. Emphasize Market-based Solutions in Fisheries Management.

A root problem in most U.S. fisheries, including the North Pacific and West Coast fisheries, is overcapitalization, excess fish harvesting and processing capacity that results in economic inefficiency. Overcapitalization is prevalent because most fisheries are managed under open access, or Olympic-style, systems. Under open access, each vessel seeks to catch as many fish as possible before the quota is reached. This system rewards those who employ the most fishing effort during a compressed season.

To solve the overcapitalization problem in the West Coast and North Pacific regions, Arctic Alaska endorses Individual Transferable Quota (ITQ) programs for groundfish and crab. ITQs create a market-based regulatory regime by assigning harvest privileges to vessels based upon their catch history. Vessel owners can buy, sell or lease quota shares. Vessel operators need

not race to harvest their individual share, instead market prices, weather conditions and other variables can be determining factors.

ITQs allow for more efficient use of capital. Once individual quotas are assigned, the economic incentive to utilize excess capacity, which exists under open access, disappears. ITQs also contribute to improved vessel safety. Currently, under open access, fishermen who remain in port during foul weather risk losing out to those who go fishing. When a share quota program is in place, fishermen need not operate in dangerous weather conditions, their percentage of the overall quota is guaranteed.

Business planning is an oxymoron within the current regulatory environment. The Pacific whiting fishery provides a good example. Each of the past three years has seen a significant change in allocation formulas. Most recently, in November, 1992, the Pacific Fishery Management Council proposed allocating 75 percent of the 1993 whiting harvest to shoreside processors, a significant increase from the 25 percent processed onshore in 1992. On April 16, 1993, hours after the fishery opened, the Department of Commerce partially disapproved the Council's recommendation, which more than halved the amount of whiting required to be brought ashore for processing.

Arctic Alaska operates four vessels that process fish into surimi, the principal product form of whiting. As I mentioned earlier, Arctic Alaska also has a significant investment in an onshore whiting processing facility. Basing our business planning on the Council's recommendation, we did not plan to utilize any of

our surimi vessels in the 1993 whiting fishery. Instead, we planned to meet our customers' orders for surimi by producing whiting in our Newport plant. When the Secretary published the final whiting rule, Arctic Alaska had to reverse its business plan to produce surimi at-sea rather than offshore. We had to immediately locate our crew members, provision the vessels, arrange for packaging materials, etc. As a result, only two of our vessels participated in the fishery. They were dispatched a week late to fish in what turned out to be a three-week long season. Our Newport operations were curtailed, and Arctic Alaska was unable to meet its commitments to its customers.

The point of this anecdote is not to judge the merits of either the Council's or the Secretary's actions, but simply to illustrate that an ITQ system will take some of the uncertainty out of business decisionmaking and allow for longer term planning.

Another critical fishery management issue is bycatch reduction, and it is also best addressed by implementing an ITQ regime. Bycatch is the incidental catch of non-target species; fishermen employing all types of gear encounter bycatch. There are bycatch caps in the North Pacific fisheries. If bycatch limits are exceeded, the target fishery is closed, even if the allowable catch level has not been reached. The bycatch problem is exacerbated under open access since the primary economic incentive is to catch as much of the quota as possible as fast as possible. Perhaps the most effective bycatch avoidance measure is leaving a productive fishing area, if high bycatch is experienced, and finding new

concentrations of the target species. This means lost fishing opportunities for conscientious fishermen who work to minimize bycatch by sacrificing fishing time to change fishing locations. Some argue that various fishing technologies result in unacceptable levels of bycatch, or even discards of target species. However, the culprit is an open access regulatory system that provides economic incentives for wasteful fishing practices.

Parenthetically, let me add that Committee should be aware of and override regulations that mandate waste in the fisheries. The most egregious example is the prohibition on retention of halibut, herring, and salmon by trawl vessels. Oftentimes, trawl vessel operators are criticized for throwing away these species, when, in fact, retaining these fish is a violation of the law.

No doubt Congress will extensively review the issue of limited access, including ITQs, during the Magnuson Act reauthorization process. Arctic Alaska requests that the Merchant Marine Committee promote rationalization of the Pacific and North Pacific fisheries through promotion of an ITQ program. A market-based management system will help avoid the fractious allocation disputes involving various industry sectors, will have positive conservation benefits, and will provide economic and social stability.

## 2. Restoring Credibility to and Improving Management of the Regional Fishery Management Council Process.

Since the Act was reauthorized three years ago, a great deal of attention has been focused on the conduct of regional fishery management council members and the regional council process. In

some regions, councils have simply failed to effectively manage fishery resources. Fortunately, the North Pacific Council, which for its first ten years largely managed stocks harvested by foreign fishermen, established sound conservation practices and maintained those practices. However, the North Pacific Council is not above reproach. It drew sharp criticism last year from the Commerce Department's Office of Inspector General (OIG). The Inspector General reported that the Council's analysis of the largest, and possibly most controversial, allocation scheme yet proposed was inadequate. A separate ethics investigation of the North Pacific Council and its staff was also conducted.

Arctic Alaska offers the following thoughts on Congressional review of the the regional council process. First, confidence in the regional fishery management council process will continue to erode unless adequate ethical standards are applied to council members. Second, if Congress remains committed to having user groups comprise the council membership, some check on the authority of councils is needed. Several ideas for improving the regulatory review process are also offered.

a. Ethical Standards for Council Members. Council members, of course, are appointed to their positions by the Secretary of Commerce. These individuals are exempt from federal conflict of interest statutes that govern the conduct of other federal officials who may face conflicts of interest when carrying out their duties. Also, financial disclosure requirements are inadequate.

If self-interested individuals are directly involved in regulating themselves and their competitors, does it not stand to reason that higher standards of ethical conduct, not lower ones, should be in place? Arctic Alaska recommends first that council members be required to state on the record their direct or indirect financial interests when voting on a management measure. Second, much more detailed financial disclosure should be required of council members. Third, the decision memoranda prepared by Commerce officials when reviewing a proposed council action should include a thorough analysis of the financial benefits, direct or indirect, accruing to council members (including their employers, clients, families, partners, etc.) supporting the proposal.

b. Restoring Balance Between the Secretary and the Councils and Improving the Regulatory Review Process.

Congress has struggled and failed in efforts to ensure balanced representation on the regional councils. In fact, in an industry as diverse as the fishing industry, it is difficult to conceive of a formula under which the interests of all legitimate parties can be adequately represented and protected. If the conservation failures reflect the inability of user groups to regulate themselves, and I believe they do, the recent bruising allocation battles reflect the attempts by user groups to regulate their competitors. Review of council actions by the Commerce Department is the only opportunity for impartial review. Currently, the Secretary is limited to approving, disapproving, or partially disapproving council proposals. Arctic Alaska proposes



providing the Secretary the flexibility to improve management measures submitted for approval.

At the same time, stricter limits on Secretarial review need to be imposed. Currently, Secretarial review of fishery management plans and plan amendments must be completed within 95 days. If Secretarial action is not taken, the plan automatically goes into effect. There needs to be a similar requirement for regulatory amendments. Also, the so-called 95-day clock for reviewing fishery plans and plan amendments does not start until Commerce declares that it has received a complete package from the council. At times, the 95-day review time is shorter than the period of time when plans are in the nether world between when the council acts and Commerce declares official receipt of a plan for review. These delays need to be eradicated.

That concludes my statement, Mr. Chairman. Once again, thank you for the opportunity to testify today before the Committee. I'll be pleased to answer any questions that you, or other members of the Committee, might have for me.

Statement of the Honorable Mike Kopetski  
 Before the House Committee on Merchant Marine and Fisheries  
 Portland, Oregon  
 August 10, 1993

Mr. Chairman, earlier last spring, the Secretary of Commerce overrode the recommendation of the Pacific Fisheries Management Council and Commerce's own previously published Proposed Rule relating to an allocation of Pacific whiting. This action established a wide open fishery that strongly favored the large factory trawlers that process Pacific whiting off-shore, and a small reserve for the vessels that fish for the on-shore processors. Commerce defended its action by stating that the Final Rule was fair and equitable to all parties fishing for Pacific whiting.

Mr. Chairman, the coastal fishing communities of Oregon were devastated by this decision. These communities have spent years planning for and investing in a shore-based fishery as a way to stabilize revenues and plan for the future. With this decision, all of this was endangered.

Although Commerce's decision assumed that the shore-side sector would take some portion of the initial fishery, in reality, the on-shore fishermen never had a chance under this plan. After only one week, of the 112,000 tons of Pacific whiting allocated to the olympic fishery, the factory trawlers had harvested nearly 25,000 tons while the on-shore fishermen had harvested only 214 tons. Commerce's ill-founded assumption that the on-shore sector would harvest 12,000 tons in the initial fishery began to look ridiculous. When it became painfully obvious that the factory trawlers were going to suck up the entire initial allocation, Commerce was forced to issue an emergency rule, stopping the olympic fishery earlier than expected in order to save some of the fish for the on-shore vessels.

Mr. Chairman, initial reports also indicate that the Pacific whiting caught by the off-shore sector was of inferior quality because the fish had just completed spawning and were depleted. Some processors estimated that recovery of product from whole fish was 6 to 10 percent below normal. Other indicators, such as the production of fish oil, also confirmed the poor quality of the Pacific whiting caught by the off-shore sector this year. Additionally, and contrary to custom, the Department of Commerce did not release any preliminary incidental take of non-target species (by-catch) data for either sector in the Pacific whiting fishery. However, data from the 1992 season does not bode well for this year. In 1992, as by-catch, factory trawlers caught 14% of the total allowable catch for yellowtail rockfish, 5% of the total allowable catch for widow rockfish and 22% of the incidental catch of Pacific Ocean perch allowed for the entire coastal fleet.

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Further, the factory trawlers and motherships that fish and process Pacific whiting are set up to handle only whiting. Additionally, they only handle whiting of a certain size. Whiting too small or too large, as well as the incidental take of all other groundfish and other fish species, are discarded. In 1992 the entire catch and discard by the factory trawlers, other than whiting, was 7% of all quota managed species by the Pacific Fisheries Management Council. Because the factory fleet does not utilize this by-catch, this 7% equals 10,502,633 pounds of non-utilized and wasted resource by the factory trawler fleet at the expense of the coastal trawl fleet which depends on these fish.

In fairness, the coastal fleet also has by-catch tonnage. However, in 1992 the incidental catch for yellowtail rockfish was 10 times higher for the factory fleet than the coastal fleet and the same comparisons can be made for the other groundfish species and perch. Additionally, the shore-based vessels retained and landed all of their incidental catch, all of which was processed and sold.

Mr. Chairman, Commerce's decision was also flawed in its process. On November 15, after considering volumes of documentation and after days of public debate and testimony over the course of more than a year, the Pacific Fisheries Management Council adopted an allocation for Pacific Whiting by a 9-2 vote. This allocation plan was forwarded by the National Marine Fisheries Service (NMFS) Regional Director to NMFS in Washington. To my knowledge, the Council was not given any indication that the Washington office was concerned about the plan. In fact, by forwarding the plan without comment, tacit approval was demonstrated.

On March 18, the National Oceanic and Atmospheric Administration (NOAA) published its Proposed Rule for the whiting allocation in the Federal Register. While this Proposed rule was significantly different than the Council's plan, it kept the majority of its provisions. I expressed my support for the Proposed Rule, though it was a compromise, because it still recognized the importance of the shore-side fishermen and processors. In a letter to Secretary Brown, I emphasized the critical need for this type of rule to be implemented on a long-term basis to eliminate this yearly fight.

All pretext at making use of Council input was abandoned when the whiting season began at 12:01 am April 15th. As of that time, Commerce had not yet announced its Final Rule. The result was that factory trawlers that had been preparing for several weeks, at great cost to themselves, began a fishing free for all. Finally, after the fishery had been in effect for 14 hours, Commerce announced its Final Rule. To my extreme disappointment, this rule had no basis in the Proposed Rule and, in fact, went against Commerce's own economic analysis and justification. This rule

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devastated the coastal fishery and established clear preference for an industry that is both new to the fishery, environmentally destructive and lacking in its contribution to local communities.

Mr. Chairman, this decision, though technically within the legal confines of the Magnuson Act, clearly violates the intent of the Act to have the Councils allocate. I am disappointed the Administration has chosen to pursue such a blatantly political solution to such a complex and technical natural resource issue.

The previous Administration asked for and received an allocation plan from the Council that was designed to end these allocation fights. By being abundance driven and long-term, the volume of the resource determines how much each user group receives, not politics. Further, the Council's allocation plan was part of an overall complex of fishing allocations, including salmon. The Proposed Rule narrowly preserved this complex but the implications for all fishing plans including salmon and other groundfish species because of by-catch problems with the Final Rule are potentially devastating.

The Council's plan was also developed in accordance with national goals to minimize overfishing and is designed to reduce fishing pressure wherever possible. The Final Rule could result in a skyrocketing of the incidental catch of salmon and rockfish as it did last year. This could further jeopardize the salmon season which is already facing severe cutbacks.

Mr. Chairman, as a result of Commerce's decision, the coastal communities of Oregon, Washington and northern California stand to lose \$100 million in revenues, while the factory trawlers profit and run. Pacific whiting is put to much better economic advantage by the on-shore sector through more efficient utilization of the resource and a longer season. For example, 10,000 tons of Pacific whiting means 2 days of work for the factory trawlers while it represents one month of work for the shore-based fisherman. Further, in Oregon, on-shore fishermen and processors contribute significantly to State and local governments through landing, trawl commission, corporate and property taxes, while the factory trawlers and motherships contribute nothing.

Mr. Chairman, it is hard to say where we should go from here. I agree with Council director, Larry Six, when he says the public may not be willing to support a process that can be overridden so easily. The Council process is vitally important to local fisherman because it is the most significant opportunity they have to be a part of the allocation process. I am hopeful that the Council will find the will to gear up for next year's whiting allocation.

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There is however another test of the system; the implementation of the license limitation system. As you may know, the American Factory Trawler Association has filed suit against this system. I would like to make it known now that if the license limitation system, developed over the last several years does not go forward, I will view this as another assault on good government and another example of the Department of Commerce caving into factory trawler interests at the expense of the shore-based fishery.

I'd like to close by emphasizing that I am not advocating a diminished role for the Secretary of Commerce. However, in my opinion, the Secretary should not be substituting his policy judgment with that of the Council's. In fact I would hope that, if Commerce wants more of a policy role, the agency should contribute its input at the beginning of the process instead of at the end, as we have seen in several other fishery allocation decisions in addition to Pacific whiting. This way if the plan is legal, adequately justified and sufficient in its documentation, Commerce could leave the allocation process to the Council's as the Magnuson Act intended.

The experience of last spring's whiting allocation debacle is a graphic illustration of the urgent need for this committee to address council accountability, conservation incentives, and waste and bycatch concerns as you move to reauthorize the Magnuson Act.

**Pietro Porraivano**  
President

**David Allen**  
Vice-President

**John Greenville**  
Secretary

**Don Sherer**  
Treasurer

**Please reply to:**

**Main Office**  
[] P.O. Box 989  
Sausalito, CA 94966  
Tel: (415) 332-5080  
FAX: (415) 331-2722

**PACIFIC COAST FEDERATION  
of FISHERMEN'S ASSOCIATIONS**



**Office of the President**

[] P.O. Box 340  
El Granada, CA 94018  
Tel: (415) 726-1607  
FAX: (415) 726-1607 - 3\*

**Habitat Office**

[] P.O. Box 783  
Mendocino, CA 95460  
Tel: (707) 937-4145  
FAX: (707) 937-2617

**W. F. "Zeke" Grader, Jr.**  
Executive Director

**Nathaniel S. Bingham**  
Habitat Director

**Glen H. Spain**  
Northwest Director

**Much Farro**  
Director of Enhancement  
Projects

**Northwest Office**

☒ P.O. Box 11170  
Eugene, OR 97440-3370  
Tel: (503) 689-2000  
FAX: (503) 689-2500

Written submission to the House Merchant Marine  
and Fisheries Committee  
for inclusion in the record

by Glen H. Spain,  
Northwest Regional Director of the Pacific Coast Federation  
of  
Fishermens' Associations (PCFFA)

P.O. Box 11170, Eugene, OR 97440-3370  
(503)689-2000/FAX:(503)689-2500

August 10th, 1993  
Portland, Oregon

I want to thank the Committee for taking the time and effort to hold these field hearings in order to find out first hand the sad state of our once abundant Pacific Coast salmon fishery. The region's salmon stocks are now at the door of extinction. The Endangered Species Committee of the prestigious American Fisheries Society has identified 214 separate salmonid stocks at moderate or high risk of extinction. (Nehlsen, W., Williams, J.E., Lichatowich, J.A. "Pacific salmon at the crossroads: stocks at risk from California, Oregon, Idaho and Washington." Fisheries 16(2):4-21).

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STEWARDS OF THE FISHERIES

## Testimony of Glen Spain (PCFFA)

This region is well into a biological crisis of major proportions far exceeding that caused by overcutting of old growth timber and the spotted owl. The main factor indicated by the AFS study was the loss of freshwater habitat for spawning and rearing. In other words, **too few fish are surviving to get to the ocean.** The culprits include timber practices that silt up streams and devastate riparian areas, cattle which overgraze in riparian areas, out-and-out water diversions for urban and agricultural uses which use up too much water and leave none for fish, hydropower dams which block migration -- and a host of other factors which all cumulatively cause a habitat bottleneck through which fewer and fewer young salmon can now pass. The ones that do make it through all these impacts are then so subject to stress that they become more vulnerable to predators and adverse ocean conditions as well. Only a very small fraction of those few fish that still survive to adulthood can be harvested by fishermen. Fishermen are always last in line after all the habitat impacts, and are federally regulated to a small percentage so that enough can return to spawn. However, as a result of each stage of increased habitat-related mortality there are fewer and fewer fish each year upon which to base a fishery. Habitat-related losses are slowly strangling us to death.

To put the crisis into economic perspective, it must be remembered that salmon have always been a **major commercial food crop of this region** as well as the source of jobs. The continued loss of our salmon stocks will mean the certain death of the **entire salmon fishing industry on this coast**, from Northern California to Puget Sound. This amounts to billions of dollars in lost income to the region and the loss of tens of thousands of jobs. This decline is continuing. For instance, as recently as 1988, according to economic studies by the Pacific Rivers Council, the salmon industry (including both commercial and recreational components) brought in an estimated

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**\$1.25 Billion** extra personal income to the Pacific Northwest, and contributed **62,750 jobs** to the region. Since 1988, losses in the commercial side of the industry have been **at least 85%**, with corresponding losses on the recreational side. When compared to historic catch levels, the overall losses could be well in excess of 95% throughout the coastal region. In Northern California the salmon industry has been closed down for the second season in a row. This has devastated coast fishing communities already hard hit by the recession and helped push them further into economic collapse.

The coho salmon (Oncorhynchus kisutch) stocks in particular are in the most serious condition. Coho status maps recently prepared by Dr. Chris Frissell, a fisheries biologist with Oregon State University, for the Wilderness Society indicate that the coho salmon is now extinct in over 55% of its historic habitat range and known to be in danger of extinction throughout all but at most 7% of its historic range within the Pacific Northwest. As a result, several coho petitions under the ESA have either been filed or are in preparation (as for instance the Pacific Rivers Council coast-wide coho petition, copies of which have already been supplied to Committee members). A number of salmon stocks in the Columbia River System and Sacramento Valley River System have already been listed under the ESA. Many more would qualify for ESA protection.

Unfortunately these efforts will come too little too late to prevent a number of extinctions unless immediate and large scale restoration efforts can be undertaken. Additional protections for these stocks can also help to protect them prior to a listing. However, these are all band-aid approaches trying to stop a major hemorrhage. Such efforts much earlier on would have provided far more recovery options in the long-term than the current de facto policy of waiting until these stocks are on the verge of extinction before acting.

How did we get to this situation, and what are the solutions? PCFFA sees a number of factors that got us here, including:



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-- Inaction and resistance to habitat protection by NMFS: The record to date of NMFS on habitat protection has been abysmal. NMFS only seems to react to crisis situations (such as a listing petition) when it should have been **proactive** on these issues. This has been an endemic problem throughout NMFS, but is particularly acute in this region. Once a listing becomes necessary most options have already been lost and recovery is extremely difficult or impossible.

NMFS is also chronically underfunded for the type of work it has to do. Its research budget for the Pacific Northwest is virtually zero. What research it does has to be done for other agencies on their budgets -- thus the NMFS research agenda is always being jerked around by other agencies' priorities and not its own.

NMFS' authority is also only consultative (unless there is a listing under the ESA). NMFS should have actual review and sign-off authority under the Magnuson Act by which it could veto inland projects which would adversely affect fisheries. NMFS should have authority similar to the system in Canada, in which its equivalent agency does have to review and must sign off on inland projects which might impact water quality and fish habitat. Commensurate with that authority, however, must come the funding and staff to make use of that tool to really protect habitat.

In its earlier testimony to the Merchant Marine and Fisheries Committee at its July 7th field hearing in Woodland, California, regarding the Endangered Species Act reauthorization, PCFFA reflected on the problems it encountered with the Southwest Region of NMFS in the effort to protect and recover the Sacramento winter-run chinook salmon. The horror stories of dealing with NMFS and the incompetence and unwillingness of NMFS to really deal with habitat problems extends to the Northwest Region as well. NMFS Northwest Region's continued failures to confront the flow issues on the Columbia that have to be addressed if the Snake River salmon are to be saved, much less the other salmon species of concern in that basin, have been abysmal. It is as if the BPA, and not the fish or fishing resources, are the main concerns of the agency in this region.

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-- The Magnuson Act needs to have habitat protection authority: Under the Magnuson Act as currently written, a fisheries managers' **only possible response** to habitat problems elsewhere is to clamp down further on harvest quotas. However, there is no evidence to support the unfounded assumption that restricting harvest quotas has helped restore population levels. At best, cumulative and continuing habitat losses have swamped whatever small improvements might have been expected from reductions in quotas.

What has happened, however, is that the fishing industry is being systematically strangled to death, while the real problem land abusers inland have gotten off scott free for decades with practices that continue to degrade water and destroy the last remaining fish habitat.

The Magnuson Act should be rewritten to provide for inland habitat protection authority in the PFMC and NMFS. Only in this way will the real issues -- inland habitat losses -- be addressed. It is clear to us that if salmon are to be conserved, much less "managed," that the Regional Councils must have some say over all the factors affecting the health of these populations. Under current law, the Council can restrict fishermen to the point where there is no fishery, but fish populations will continue to dwindle to the point that the only protection left is a listing under the ESA. Clearly there has to be a better way to conserve and manage our fisheries than by creating a crisis. At the very least, the Councils should be provided the type of consultative authority lead agencies are provided under Section 7 of the ESA. With that authority the Councils will have the ability to act to protect and maintain fish populations before the stocks have declined to the point where the only recourse becomes an ESA listing.

-- ESA does not contain recovery plan deadlines: Under the ESA as currently written, there are no recovery plan deadlines. The major improvements we feel should be introduced into the ESA in the reauthorization process would require that species recovery proceed more rapidly and across the landscape -- including on private lands.

## Testimony of Glen Spain (PCFFA)

The ESA should not just be a species protection law, but a habitat protection law as well. A species cannot live without a home to live in. This is true of salmon as well as all other species.

PCFFA supports H.R. 2043 as currently written. That does not mean that the bill could not be improved. However, what is clear to us is that the **strongest possible ESA should be approved**. If anything, H.R. 2043 should be strengthened, not weakened.

It is a false and short-sighted view to believe that good environmental protection costs jobs. In the case of the salmon industry, for instance, a strong ESA will save many tens of thousands of regional jobs and may be the only tool still available to save badly depleted salmon stocks throughout the region. The source of all economic wealth is the environment. A society such as ours degrades its environment at its extreme peril. All too often what we thought of as economic "progress" has turned out to be only a temporary short-term blip in a long-term tale of environmental degradation leading to downward spiraling economic and social disaster.

With this testimony we also include a short paper entitled "The Economic Imperative of Preserving Species from Extinction: The Economic Rationale Behind Endangered Species Acts." This paper sets forth the reasons a strong ESA makes economic sense and should be supported by society as a whole. Any temporary inconvenience it may cause to specific industries is clearly outweighed by its long-term economic utility. If protection of species may cost job dislocations in the short-run, extinction of species costs jobs in the longest possible time frame -- forever. For every species lost society loses economic opportunities and limits its economic future in ways that can hardly even be foreseen.

## Testimony of Glen Spain (PCFFA)

-- Politically distorted decision-making: Decision-making with respect to environmental resources should be based on the best available science, not on political motivations. Two recent examples of fisheries management decision-making that was based on primarily political considerations rather than scientific analysis are the allocation decisions for Pacific whiting and for Klamath River chinook salmon.

In both instances the Pacific Fisheries Management Council decisions, after careful analysis by a number of scientific advisory teams and based on their scientific recommendations, were summarily overridden in Washington, DC, by political appointees who were not part of the process.

It has not only been the handling of the listed salmon species that has us concerned. We have recently learned that the Northwest Regional office of NMFS played a significant role in overturning the Pacific Council's 1993 salmon season recommendations. Not only did this cause a great deal of unnecessary economic pain, but it actually caused more pressure on the coho salmon, the very species we should be giving more protection to and not less. This is gross incompetence at the highest levels of the NMFS' Northwest Regional Office. We were therefore dismayed to learn that the Northwest Regional Director of NMFS, who has watched over the demise of the salmon in this region for six years, is now being considered for the directorship of NMFS. Incompetence and malfeasance should not be awarded with promotions. The Northwest Regional Director should take full responsibility for the biological disaster that is breaking upon us even as we sit.

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In summary, current fisheries management is fragmentary and largely incapable of dealing with inland habitat loss problems.

## Testimony of Glen Spain (PCFFA)

Unfortunately, current law encourages rather than avoids the decline of salmon stocks to the point where a number of ESA listings for salmon may now be necessary to reverse declines. Changes in the Magnuson Act and the ESA should be made to protect habitat in and of itself, and both the Management Councils and NMFS must be given habitat protection authority they do not now have. Otherwise there is no hope of ever getting ahead of the extinction trend caused by inland habitat degradation over which the key agencies currently have no control.

Thank you for the opportunity to put this statement on the record, and PCFFA would welcome any specific questions from Committee members on these issues at any time. On behalf of the working men and women of the Pacific Coast Fishing Fleet, we thank you for your time and concern with this vital issue.

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END OF STATEMENT

SIX PAGE ATTACHMENT ENCLOSED

THE ECONOMIC IMPERATIVE OF PRESERVING SPECIES  
FROM EXTINCTION

The Economic Rationale Behind  
Endangered Species Acts

Written submission to the House Merchant Marine  
and Fisheries Committee

by Glen H. Spain,  
Northwest Regional Director of the Pacific Coast Federation  
of  
Fishermens' Associations (PCFFA)  
P.O. Box 11170, Eugene, OR 97440-3370  
(503)689-2000/FAX:(503)689-2500

August 10th, 1993  
Portland, Oregon

SUMMARY: Economists have long recognized that natural resources have, in and of themselves, an ascertainable (and often very large) present day economic value. There is, therefore, no fundamental conflict between environmental conservation and economics. Preserving biological diversity is in fact the most fundamental basis of all economic wealth. Preservation of biological diversity, (as for instance through protections to prevent species extinction) therefore should be given the highest priority as an economic issue. Public policies that encourage the maintenance of biological diversity preserve the economic wealth resources of society upon which future industries can be built.

Much recent work has been done on the economic value, in and of itself, of biological diversity. One of the best nontechnical summaries appears in Conserving the World's Biological Diversity (McNeely, J. A., et. al., Copublished by International Union for Conservation of Nature and Natural Resources, World Resources Institute, et. al., Washington, DC (1990)), at pages 27, 33-34):

"Economists have devised a variety of methods for assigning values to natural biological resources (citations omitted). This multiplicity of approaches is to be expected, because the benefits derived from a biological resource may be measured for one purpose by methods that may not be appropriate for other objectives, and the ways to measure one resource may not be the same for others. The value of a forest in terms of logs, for example, would be measured in quite a different way from the value of the forest for recreation or for watershed protection.

Three main approaches have been used for determining the value of biological resources:

- assessing the value of nature's products -- such as firewood, fodder, and game meat -- that are consumed directly, without passing through a market ("consumptive use value");
- assessing the value of products that are commercially harvested, such as game meat sold in a market, timber, fish, ivory, and medicinal plants ("productive use value");
- assessing indirect values of ecosystem functions, such as watershed protection, photosynthesis, regulation of climate, and production of soil ("non-consumptive use value"), along with the intangible values of keeping options open for the future and simply knowing that certain species exist ("option value" and "existence value," respectively).

Assessing benefits and costs of protecting biological resources provides a basis for determining the total value of any protected area or other system of biological resources. Since the value of conserving biological resources can be considerable, conservation should be seen as a form of economic development." (pg. 27, extensive citations omitted)

In particular, the authors of that study emphasize that preserving genetic diversity provides future economic options:

"The future is uncertain, and extinction is forever. [Researchers] suggest that society "should prepare for unpredictable events, both biological and socio-economic. The best preparation in the context of wildlife use is to have a safety net of diversity -- maintaining as many gene pools as possible, particularly within

those wild species that are economically significant or are likely to be." Option value is a means of assigning a value to risk aversion in the face of uncertainty.

Natural habitats preserve a reservoir of continually evolving genetic material -- irrespective of whether the values of that material have yet been recognized -- that enables the various species to adapt to changing conditions. The plants and animals conserved may spread into surrounding areas where they may be able to be cropped at some future date, or may eventually contribute genetic material to domestic crops or livestock. Protecting natural habitats can therefore be seen as a means for nations ... to keep at least part of their biological resources intact for the future benefit of their populace." (pg. 33-34)

Other studies also emphasize the immense economic as well as scientific importance of keeping biological options open through preservation of genetic diversity (see for instance the World Resources Institute report Keeping Options Open: The Scientific Basis for Conserving Biodiversity (1989); Orians, G. H., et. al., The Preservation and Valuation of Biological Resources, Univ. of Washington Press, Seattle, WA (1990)).

To put economic "option value" into perspective, it should be remembered that only a very small portion of earth's biological heritage has as yet been tapped by humanity for any purpose:

"Most plants and animals do not now provide direct economic benefits to humans, but this does not mean that those species will never do so. Of the known species of plants and animals, only a small fraction have been examined to determine their potential for new food and drugs or commercial and industrial products. About 10 percent of all plant species contain substances that might be useful in treating cancers, yet few of these species have been examined to assess their potential. Of the approximately 80,000 edible plants, humans have used less than 4 percent, and less than 200 are widely cultivated. A mere seven species -- corn, rice, wheat, barley, cassava, potato, and sweet potato -- provide three-quarters of all human nutrition. Almost all protein (from domesticated animal species) that humans consume comes from just nine species. Cows and pigs alone provide more than half of all meat production. At the least, this extraordinary reliance on so few species creates a high vulnerability to pests and disease. More important, limited diversity narrows the genetic base, thus reducing opportunities to respond to these pests and disease .... Every time a human contributes to a species' extinction, a range of choices and opportunities is either eliminated or diminished." (from Tobin, R. J., The Expendable Future: U. S. Politics and the Protection of Biological Diversity, Duke University Press (1990), pg. 13)



A perfect recent example of this principle in practice is the case of the Pacific yew tree. For years considered a "trash" tree, it was systematically eliminated by timberland managers for generations. Now it has been discovered to be the primary natural source of the drug "taxol," a potent remedy for several types of cancer, and is extremely valuable in the few places it still grows naturally. There are undoubtedly many other species which naturally occur in Oregon that will be of economic use in the future but whose uses are at present completely unknown.

Some lessons can be learned from neighboring state examples, particularly in the realm of forestry practices. For instance, the California Department of Forestry and Fire Protection has long had nursery and tree improvement programs to collect seeds from good genetic tree stocks and to propagate genetically superior tree specimens from them. Among the many genetic traits being investigated is resistance to disease and pests. Preserving genetic resistance to naturally occurring pests is also one of the primary goals of California's Gene Resource Conservation Program. In its report The California Gene Resource Conservation Program: Phase I Report (1981), the ultimate economic importance of maintaining California's genetic diversity with respect to our timber supply was specifically noted:

"California has outstanding agricultural, forestry, and fishing industries whose continued success rests on the availability of appropriate gene resources. In fact, California will reap tremendous economic benefits if this state can help meet the projected increases in worldwide demand for food and fiber (due mostly to the estimated increases in world population size). As mentioned earlier, the development of new plant varieties is likely to increase in importance as a cost-effective and safe method for increasing production. (pg. 33)

"Some of the diversity of California's native timber species is in danger because of extensive artificial regeneration with inappropriate seed and seedlings. This is now a serious problem in north coast stands of Douglas-fir, where extensive aerial seeding of non-native seed has occurred. Likewise, in the central Sierra Nevada, plantations of another commercially valuable species, Ponderosa pine, have been established with non-local seedlings.

Native populations of California's timber species are threatened not only by contamination, but by land-use changes and other human influences, disease, pests, and fire. An important means of safeguarding the gene pools of native species is through in situ reserves, such as federal and state parks and wilderness

areas. However, many commercially important species are not adequately protected in this manner. [Researchers] have noted that of all of the valuable commercial timber species in California, it appears that only redwood and red fir have adequate in situ protection. (pg. 106-107)

"While the new molecular technologies, especially genetic engineering, hold much promise for improving the productivity of domesticated animals and plants, it should be made clear that for the foreseeable future the raw materials required for the success of these new technologies will be the threatened traditional sources of genetic diversity: naturally-occurring wild species; collections; and the "primitive" animal breeds and plant varieties found mainly in developing countries." (pg. 22) [underline in original]

Oregon has a rich natural heritage of biological species, many of which occur nowhere else in the world. However, Oregon is rapidly losing the fight to preserve Oregon's unique biological heritage -- and thus its economic options for the future. One of the few bulwarks against species extinction is the Endangered Species Act (ESA). This is, however, the same statute that numerous bills now seek to destroy.

Many fragile ecosystems are under assault and becoming fragmented by a variety of human activities. From a purely practical economic viewpoint, **we cannot afford to let whole ecosystems collapse.** Much of the Pacific Northwest's economic wealth depends on such ecosystems, and their loss would immeasurably impoverish our region and its economic potential.

The spotted owl is merely an "indicator species." Other "indicator species" which are also dependent for their existence on this same forest ecosystem are the various species of Pacific salmonids and related species (coho, chinook, steelhead trout, chum, sea run cutthroat trout, pink and sockeye). These are all "anadromous" species, i.e., they breed in fresh water and migrate out through salt water estuaries to the sea. All of these species spawn and go through the most fragile stages of their lifecycles in fresh water, **most of which originates in or flows through Oregon's forestlands.** Logging and grazing practices which have destroyed Oregon's old growth forests have also -- simultaneously -- helped destroy Oregon's salmon. This is a prime example of the continuing economic loss to Oregon which results from the destruction of an ecosystem and the species which depend upon it. The same story is being played out in Northern California and Washington as well, as short-sighted extractive policies jeopardize the long-term sustainability of the resource and -- ultimately -- the entire region's economic future.

According to several independent economic studies, the salmon fishing industry (including both its commercial and recreational components) contributed 1.25 Billion dollars in personal income to the Pacific Northwest's economy in 1988 alone, supporting an estimated 62,750 jobs. In prior years these income and jobs figures have been greater. In spite of this recent good season, however, the overall trend in the salmon industry has been downward. Today, only a few short years later, the commercial salmon industry is in collapse, with losses from the 1988 baseline year of over 85% in Oregon, and nearly 100% in California. One of the primary causes of this downward spiral has been land use practices that have destroyed forest-based spawning and rearing grounds which these fish need to reproduce and survive. Such short-sighted policies merely pit one economic sector against another to the ultimate detriment of both.

One of the primary tools available to prevent the collapse of the salmon fishing industry has been state and federal endangered species acts. We see an ESA listing as the final barrier between those species and extinction. We thus cannot support efforts by the timber, mining, grazing and other industries to "shoot the messenger" rather than deal with the problems created by overharvesting of timber and the destruction of riparian habitat on a massive scale throughout the region.

Protecting species from extinction means preserving the habitat and ecosystem they depend upon. Preserving an intact forest ecosystem also means preserving more timber jobs in the long run rather than sacrificing those jobs by overcutting for gains which are only at best short-lived. Protecting these biological resources will also produce more jobs in other forest-based industries, such as the salmon fishing industry.

Delisting the spotted owl and other endangered species should be done by restoring their habitat, not by legislative fiat. We are thus opposed to "sufficiency language" which merely short-circuits environmental protections. The problem is the collapse of a ecosystem, not the ESA -- which after all is merely a reflection of what we have done to these fragile biological systems. The ESA is the MESSENGER, not the message. Shooting the messenger bearing bad news is never a long-term solution to any problem.

In particular, the recovery of the coho salmon will be impossible without a strong ESA. As the Committee members are aware, there has already been a request for listing of most coho salmon runs in Oregon, and a coast-wide petition for the listing of coho sponsored by the Pacific Rivers Council is also in the final drafting stages. Unless dramatic land use changes are made and restoration monies made immediately available, the coho salmon will be the next "spotted owl" for this region within two years. The difference, however, is that these salmon support an industry which creates jobs. An ESA listing of coho salmon may thus be the only way to restore and preserve the tens of thousands of regional jobs which depend upon salmon for their existence.

The ESA is thus no longer an "environment vs. jobs" issue. A future listing of salmon under the ESA may in fact now be necessary to save jobs, as in the case of the salmon fishing industry.

As we have seen from the discussion above, maintaining biological diversity has immense potential economic value to the Pacific Northwest as a whole, and is strongly favored by a host of public policies as a public trust resource. That diversity represents the foundation upon which new industries may be built in the future, great advances in medicine may be made, new processes created, new and improved agricultural products (including disease and pest resistant timber products) developed -- indeed, a host of uses we cannot now conceive of, but which all have long term economic value. These resources should not be squandered, as they often have been in the past, by short-sighted public policy designed to produce only short-term and transitory economic gains while creating long-term disaster.

For these reasons -- based on purely economic self-interest -- the Federal Endangered Species Act should be strengthened, and not weakened as proposed by many. A strong ESA may soon mean the difference between having a viable salmon industry versus massive final extinction of salmon throughout this region.




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*California Office*  
Rockridge Market Hall  
5655 College Ave.  
Oakland, CA 94618  
(510) 658-8008  
Fax: 510-658-0630

**TESTIMONY OF THE ENVIRONMENTAL DEFENSE FUND**

**ON THE**

**THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT**

**submitted to**

**THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES**

August 10, 1993

Field Hearing in Portland, Oregon

**By**

Rodney Fujita, Ph.D

Douglas Hopkins, J.D.

Zach Willey, Ph.D

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*National Headquarters*

257 Park Avenue South  
New York, NY 10010  
(212) 505-2100

1875 Connecticut Ave., N.W.  
Washington, DC 20009  
(202) 387-3500

1405 Arapahoe Ave.  
Boulder, CO 80302  
(303) 440-4901

128 East Hargett St.  
Raleigh, NC 27601  
(919) 821-7793

1800 Guadalupe  
Austin, TX 78701  
(512) 478-5161

The Environmental Defense Fund welcomes this opportunity to provide testimony on the reauthorization of the Magnuson Fishery Conservation and Management Act (MFCMA). EDF is a national non-profit organization that uses science, economics, and law to identify environmental problems and formulate solutions. The authors are a marine ecologist, attorney, and economist, respectively, on the staff of EDF. EDF is a member of the Marine Fish Conservation Network; however, EDF is not representing the Network in this testimony.

Our nation's fisheries are in serious trouble, both biologically and economically. Overfishing, overcapitalization, declining fish populations, and declining profits have resulted from a combination of many factors. These include:

- \* major flaws in current methods of stock assessment and the determination of sustainable yield;
  - \* lack of a risk-averse approach to managing fisheries;
  - \* lack of incentives for fishers to practice long-term conservation;
  - \* the presence of powerful incentives to overharvest and use sometimes destructive gear and fishing practices, resulting from open access management and the race for fish;
  - \* a contentious, politicized allocation process that is repeated yearly;
  - \* weak definitions of overfishing and lack of an express prohibition of it;
  - \* lack of adequate incentives to avoid bycatch, including inadequate enforcement and the lack and/or limited use of selective harvest technology;
  - \* inability to collect use fees to finance fisheries management;
  - \* dominance of fishing industry interests on the regional fisheries management councils;
- and, perhaps most importantly in the long term,
- \* loss or impairment of the ecosystems that sustain fish populations.

This testimony focuses on the determination of allowable harvest levels, increasing risk-aversion in fisheries management, removal of incentives for overfishing and creating incentives for conservation, minimizing bycatch, collecting use fees, reforming the regional fisheries management councils, and protecting fish habitat. The policies set forth in the Magnuson Fishery Conservation and Management Act (MFCMA) have clearly failed to adequately protect both fish populations and the economic outputs of fisheries.

**On behalf of EDF, we recommend the following measures to address these problems:**

## MAKE SUSTAINABLE YIELD TRULY SUSTAINABLE

Maximum Sustainable Yield (MSY) continues to be the goal of fisheries management, but MSY may be impossible to calculate and unattainable due to the unpredictable nature of the marine ecosystems that sustain fish populations and other biological complications. In addition, optimistic estimates of key parameters in fish population assessments are sometimes used, leading to inaccurate assessments and excessive allowable harvest levels.

\* Language is needed in the MFCMA to strengthen requirements that harvest level determinations be based on the best available scientific information, and to mandate a precautionary approach designed to prevent overfishing and adverse ecological effects of fishing.

\* Language is needed in the MFCMA to direct fisheries managers to re-examine the concept of maximum sustainable yield (MSY) with a view toward the development and implementation of a more conservative management concept, subject to less uncertainty.

\* An alternative would be to direct the National Academy of Sciences to evaluate MSY and propose alternatives if necessary.

\* While use of the MSY concept continues, measures to account for natural variability and scientific uncertainty should be incorporated into the process of setting Total Allowable Catch (TAC) levels. Conservative values for stock assessment parameters should be used. Consideration should be given to the application of a "safety factor" to the TAC, similar to safety factors used in setting other environmental standards.

\* The MFCMA should be amended to make clear that economic and social factors cannot compromise the requirement that fish populations with an appropriate number of fish and distribution of life stages necessary for sustainable harvest and for the maintenance of ecological integrity will always remain in the water.

\* Restrictions on the modification of allowable catch levels designed to ensure sustainable harvest and/or to rebuild depleted populations by economic and social factors are especially needed.

\* The MFCMA should specify that management decisions must be risk-averse; i.e., they should err on the side of conservation when stock status is uncertain. Conservative estimates of parameters used in stock assessments and TAC-setting should be employed. Fish populations should not be exploited unless sufficient information exists for the determination of MSY and major ecological impacts of harvest.

## EXAMINE AND IMPLEMENT ALTERNATIVES TO CONVENTIONAL FISHERIES MANAGEMENT

Open access to fisheries is at the root of the serious biological and economic problems besetting US fisheries. Because individual fishers have no guarantee of a

share of the harvest under open access, they engage in a "race for fish": intense competition to maximize individual catches. The race for fish leads to overfishing, absurdly short seasons, lost gear that kills fish after the season is over, market gluts, declining profits, and massive job loss. Limiting access to fisheries without guaranteeing individual fishers a share of the allowable catch tends to perpetuate the race for fish. Alternatives, such as Individual Transferable Quotas, are available. While problems in ITQ system design and implementation remain, ITQs show considerable promise for improving conservation of fish and the economics of US fisheries. They should be tested and implemented in appropriate fisheries if the tests are successful.

**\* Individual Transferable Quotas should be actively studied as a viable alternative to open access and limited access with input controls. Conduct comparative studies.**

**\* Develop criteria for selecting fisheries amenable to ITQ management and for program design, with a goal of maximizing the conservation benefits of ITQ management.**

**\* Because some time will be required to assimilate lessons from past and ongoing quota management experience, we recommend that no new quota management programs be initiated for one year. New quota management programs should be initiated after the evaluation period if they contain provisions to address key problems and promise improvement over existing management regimes in rebuilding depleted fish populations, in allowing sustainable levels of harvest of healthy populations, and in preventing detrimental ecological effects of fisheries.**

**\* Remove all government grants, loans, tax breaks, and other subsidies which encourage overfishing and economic decisions which conflict with the goal of ensuring sustainable, ecologically-sound fisheries.**

**\* Establish a fishing industry user fee to provide revenues to cover enforcement costs as well as to fund a sustainable fisheries trust fund. Deploy monies from the trust fund to provide technical assistance and incentives for the fishing industry to operate in compliance with sustainability goals. Protect the trust fund from raids.**

#### MINIMIZE BYCATCH

Bycatch is a serious problem because it causes fish mortality which remains undocumented and inadequately controlled.

**\* Establish caps on bycatch mortality based on levels needed to ensure sustainable yield and avoid adverse ecological impacts.**

**\* A process for systematically evaluating gear and banning gear that is unselective and/or damages habitat is needed.**

**\* Incentives to reduce bycatch, land and report unavoidable bycatch, and reduce dumping -- as well as severe penalties for dumping -- are needed.**

**\* Examine the feasibility and costs of alternative enforcement strategies to minimize**



bycatch, including but not limited to observers on every boat; aerial surveillance; random at-sea checks; bounties; fines; civil and/or criminal penalties; bycatch landing documentation and credits; and inter-species quota trading.

#### REFORM THE FISHERY MANAGEMENT COUNCILS

Open access and politicized allocations of allowable harvest create and exacerbate conflicts of interest on the fishery management councils. ITQ management has the potential to reduce conflicts of interest by replacing yearly votes on allocation with a more objective, consensus-based allocation formula tailored to specific fisheries. Once the initial allocation is made, market forces will make subsequent allocations in response to changes in allowable catch, retirements, etc.

Certain steps can be taken to remedy the effects of conflicts of interest in the short term.

**\* The MFCMA should require that some minimum number or proportion of Council voting members should have no affiliation with user groups or government agencies.**

#### PROTECT FISH HABITAT

Currently, fishery managers have little influence over the actions of private landowners and state and federal agencies that affect fish populations.

**\* The MFCMA should mandate interagency coordination to protect fish habitat on an ecosystem management basis.**

## DETERMINE TRULY SUSTAINABLE HARVEST LEVELS

### *The problem with Maximum Sustainable Yield*

Some of the core methodologies and concepts used in fisheries management, such as Maximum Sustainable Yield and Optimum Yield (as currently defined), are flawed and often result in inaccurate assessments and unsustainable allowable catch levels.

Fisheries scientists cannot reliably determine the Maximum Sustainable Yield (MSY) on which the Total Allowable Catch (TAC) is based. Fish are part of complex ecosystems which are highly variable and difficult to understand scientifically. In addition, fish population size is not governed simply by the number of spawning fish present, as is often assumed in conventional stock assessment and management. Rather, complex ecological factors determine abundance. MSY is probably unattainable in practice, due to these ecological complications.

These factors are not generally taken into account in assessment and management, due in part to the paucity of information available on their impacts. As a result, sustainable levels of harvest must be determined largely through trial-and-error; but large levels of natural variability mask the effects of overfishing until it is very severe and sometimes irreversible. A number of factors, such as fishing down vulnerable populations, combine to give the appearance that MSY is larger than it really is. As a result, once MSY is achieved it is unlikely to really be sustainable. In addition, even basic survey techniques and extrapolations are sometimes problematic. Flawed population assessment techniques resulted in a severe overestimate of the number of salmon expected to escape the Pacific Northwest fishery to spawn. This, in combination with a number of other management and assessment problems, resulted in overharvesting of coho salmon in recent years.

### *Alternatives to MSY*

The first step toward improving fisheries management is to improve the techniques used to determine the sustainable yield. Many fisheries experts recommend the use of a Constant Maximum Sustainable Yield (CMSY), based on the minimum acceptable population size that must remain in the water after harvest, regardless of variations in the carrying capacity of the ocean environment. This is likely to be subject to less uncertainty and be more conservative than the estimation of "surplus production" currently used to calculate MSY. An alternative would be to apply a safety factor accounting for natural variability and scientific uncertainty to MSY in order to arrive at a conservative level of allowable harvest.

**\* Language is needed in the MFCMA to direct fisheries managers to re-examine the concept of maximum sustainable yield with a view toward the development and implementation of a more conservative management concept, subject to less uncertainty.**

**\* An alternative would be to direct the National Academy of Sciences to evaluate MSY and propose alternatives if necessary.**

\* If use of the MSY concept is to continue, measures to account for natural variability and scientific uncertainty should be incorporated into the TAC-setting process. Conservative values for stock assessment parameters, such as natural mortality rates, spawning success, recruitment success, etc. should be used. Consideration should be given to the application of a "safety factor" to the TAC, similar to safety factors used in setting other environmental standards.

#### RESTRICT THE INFLUENCE OF ECONOMIC AND SOCIAL FACTORS

Another factor that has made the existing approach unworkable, particularly for depleted populations, is that the definition of "optimum yield" takes into account economic and social factors. This language has made the Council's management of depleted fish populations an annual free-for-all of interested parties, in many cases. Too often, economic and social factors have taken precedence over conservation goals - and ironically, accession to short-term economic and social pressures for unsustainable harvest levels has resulted in economic and social devastation. In addition, the diversity of opinions on what constitutes optimality is too large to form a consensus.

\* The MFCMA should make clear that economic and social factors cannot compromise the requirement that a fish population with an appropriate number of fish and distribution of life stages necessary for sustainable harvest and for the fulfillment of the ecological roles of the fish will remain in the water.

If a constant maximum sustainable yield (CMSY) approach is taken, this will mean that harvest levels can be increased above the CMSY only in years of high fish abundance. Restraint must be exercised in this case, particularly with regard to further investments to increase fishing power. Such investments should be discouraged so as to avoid overcapitalization over the long term.

#### PREVENT STOCK DEPLETIONS AND REBUILD OVERFISHED POPULATIONS

Many TAC levels are not conservative, because estimates of spawning success, recruitment success, adult survivorship and other critical parameters are overly optimistic. Furthermore, many populations have been fished down to depletion in the absence of knowledge of sustainable yield levels and the ecological impacts of harvest. The status of over 30% of the fish populations that are commercially exploited in the U.S. is unknown.

\* Language is needed in the MFCMA to strengthen requirements that harvest level determinations be based on the best available scientific information, and to mandate a precautionary approach designed to prevent overfishing and adverse ecological effects of fishing. Harvest levels should be decreased when warning signs (such as declining CPUE and mean fish size) indicate that they are too high, and pressure to increase harvest levels must be resisted.

\* The MFCMA should specify that management decisions must be risk-averse; i.e., they should err on the side of conservation when stock status is uncertain. Conservative parameters used for stock assessments and TAC-setting should be

**employed. Fish populations should not be exploited unless sufficient information exists for the determination of maximum sustainable yield and major ecological impacts of harvest.**

Rebuilding depleted populations has been problematic due to economic and social pressure for allowable catch levels that exceed levels required to rebuild the populations. The biological requirements of the population and the long term viability of the fishery should always take precedence over economic and social pressures for short term increases in harvest levels, but especially in the case of overfished and depleted populations.

**\* Restrictions on the modification of allowable catch levels designed to ensure sustainable harvest and/or to rebuild depleted populations by economic and social factors are needed.**

## **ELIMINATE THE RACE FOR FISH AND PROVIDE INCENTIVES FOR CONSERVATION**

### *The problem of open access*

Most U.S. fisheries, and indeed, most fisheries around the world, are open to all who want to participate in them. This is termed "open access". Open access commonly results in a race for fish, shortened seasons, and declining profits. These conditions provide strong incentives to overharvest and result in political pressure on managers to increase total allowable catch above sustainable levels. The result is commonly an excessive number of fishers chasing dwindling numbers of fish, causing further declines in profitability, more competition, and more calls for increased harvest levels.

The fact that open access to resources generates political and social pressure for unlimited exploitation of them is an important cause of fisheries declines, and of the depletion of many other natural resources. Conventional open access fisheries management provides unlimited access to fish, usually resulting in a "race for fish": intense competition to harvest fish as quickly as possible, leading in many cases to over-investment in fishing equipment (overcapitalization), very short seasons, declining profitability, and even compromised safety for fishers. The race for fish occurs because there are no limits on the number of fishers who can participate in a fishery, or on the individual catches of fishers. Fishers perceive that any fish (and thus profit) left in the water will be caught by another fisher; hence, they have strong incentives to catch as many fish as fast as possible, but no incentive to restrict their own harvest in order to provide for a long-term, sustainable harvest.

Caps on total harvest (TACs) decrease the likelihood that sustainable harvest levels will be exceeded, but do not end the race for fish. If nothing is done to restrict fishing power, caps result in shortened seasons and all the associated problems, such as market gluts, intensified racing for fish, dangerous fishing conditions brought on by intense competition and short seasons, gear loss, and "ghost fishing" (fish mortality caused by lost gear).

The race for fish increases the possibility of overharvesting the TAC. Reduced

profitability may encourage larger harvests by rewarding economies of scale. Poor profitability and large investments in equipment that is idled for much of the year (as a result of the rapid harvest of allowable catch by large numbers of fishers with a high level of fishing power) lead the fishing industry to exert pressure on the government to increase harvest levels above what are thought to be sustainable levels.

Under open access, more fishing effort is often expended than is necessary to harvest a given amount of fish (i.e., these fisheries are often overutilized). In any fishery, there are two levels of fishing effort that yield the same catch. However, individual fishers in an open access fishery have strong incentives to expand fishing effort as long as it increases individual profitability, due to the race for fish; hence, total effort is usually greater than the amount required to harvest a given amount of fish. Total profits from the fishery are less than they could be, because the expenditure of extra effort entails extra cost, and because catch per unit effort decreases as the fish population decreases.

Government subsidies and grants have encouraged the development of new fisheries, some of which have crashed due to over-investment and lack of understanding of stock population dynamics. Pressure for still more government aid is triggered by the fluctuation of fish abundance in response to a complex array of largely unpredictable variables. When population levels are relatively stable, harvest rates tend to stabilize at levels that are often excessive. A run of good years and the race for fish encourage additional investment in fishing equipment and processing capacity. When fish populations decrease, the fishing industry often appeals to the government to save jobs and income, and typically the government responds by increasing the allowable catch (thus jeopardizing the fish population) or by providing subsidies. Failure to inhibit investment during good years coupled with pressure not to disinvest during poor years results in a heavily subsidized industry that overharvests the resource or in the unproductive idlement of fishers and equipment after shorter and shorter seasons.

**\* Subsidies that increase fishing power should be discouraged so as to address overcapitalization.**

Limiting access to fisheries without providing individual fishers with confidence that they can harvest a fair share of the TAC without fear of losing part of it to other fishers does not end the race for fish. Even if many inputs to fishing effort (e.g., vessel horsepower, vessel size, gear, etc.) are restricted, incentives still exist for increasing unrestricted components of effort. For example, if the number of vessels is limited, vessel capacity might be increased, or if mesh size of nets is restricted, deployment and hauling rates might be increased to offset the restriction. This "game" of getting around input restrictions has subverted most attempts to limit inputs. Historically, fishing effort has actually increased under limited entry with input controls due to the persistence of the race for fish, the ingenuity of fishers in getting around input restrictions, and the tendency of managers to grant excessive numbers of licenses in response to enormous political and economic pressure.

#### *Individual Transferable Quotas*

Management based on a conservative cap on allowable harvest combined with

individual transferable harvest privileges (such as Individual Transferable Quotas, or ITQs) offers the potential for directly addressing three major causes of overfishing: unlimited access to fish and the race for fish, lack of incentives for fishers to engage in behavior conducive to the long term health of the fishery, and decreased profitability resulting in economic pressure for increased harvests.

Under an individual quota management system, as under any workable management approach, the first step is to set a TAC level. This level must be conservatively low to account for scientific uncertainty, natural variation, and the ecological effects of harvest. ITQ management in New Zealand failed to prevent the decimation of orange roughy, a newly discovered stock, because TAC levels were set high despite a near total lack of understanding of the orange roughy's population dynamics. Any management scheme is bound to fail if TAC is set too high.

Next, portions of the TAC are allocated to fishers as individual quotas that add up to the TAC, based on some equitable distribution formula. Quotas should represent proportions of TAC, rather than fixed tonnages of fish, to facilitate adjustment of TAC in response to conservation needs. Formulas based on equal shares, vessel harvesting capacity, catch history, or some combination of factors have been used in the past. Another approach would be to allocate equal "lifeline" quota shares (the minimum share of TAC required for an individual to make a living in the fishery) to all legitimate participants, regardless of size or historic catch levels.

Overcapitalization and excessive numbers of fishers can be reduced if the quotas can be traded; fishers can choose to sell their quota to other quota holders. Furthermore, restrictions on the tradability of quota may increase incentives to cheat by preventing highliners (fishers who are especially effective) from accumulating quota in the market. This may have contributed to the failure of the Bay of Fundy herring quota program.

Individual Quotas may have to be reduced or revoked to reduce capitalization or rebuild depleted populations. Costly government buyouts of quota can be avoided by defining quotas as privileges to harvest a proportion of the TAC, rather than a right. Early indications from US ITQ programs are that quota holders perceive a strong interest in the long-term health of their fishery, even though their quotas can clearly be reduced or revoked.

Individual Transferable Quota management may facilitate comanagement of fisheries (i.e., management by consensus and sharing of authority with stakeholders) and increase cooperation. Conventional fisheries management systems do not appear to be structured for effective decision making about harvest levels. Polarization often occurs between managers/scientists with a stake in the long term sustainability of the fishery and fishers who lack such a stake, resulting in political bargaining over TAC levels and allocation of fish. This becomes an even more serious concern with the implementation of ITQ management, because the TAC is the basis for determining the value of harvest allowances defined by individual quotas.

ITQ management has the potential for reducing polarization between managers and fishers by increasing the stake of fishers in the long-term health of the fishery. Limited experience with ITQ management does not allow firm conclusions, but there

are some indications that opposition to reductions in TAC levels to rebuild or protect populations in the face of scientific uncertainty is reduced when fishers hold quota. ITQ management of depressed Southern Bluefin Tuna populations in Australia facilitated a 30% cut in TAC (recovery of these populations has been slow due to the long life span of the tuna). Vesting in the future by US wreckfish and shellfish quota holders is indicated by the fact that quota share prices are much higher than annual lease prices in these ITQ programs. Previous to ITQ implementation, wreckfish fishers argued for increased TAC despite considerable uncertainty about stock population dynamics. After quotas were allocated, the TAC for wreckfish was cut in half without significant opposition.

Quota management addresses some of the factors that cause overcapitalization and the race for fish, but it does not address others, including: subsidies (such as dock facilities and tax incentives), the desire to own the best equipment, and the race to increase catches in anticipation of ITQ management so as to increase quota share. These factors need to be addressed through legislative and regulatory changes in conjunction with ITQ management if overcapitalization and the race for fish are to be eliminated.

#### *Problems with ITQs*

While ITQ management appears to have real economic and conservation advantages over open access or limited access with input controls, it has some disadvantages as well. Fishers in rural communities with less access to capital rely on hard work, skill, location, and other advantages to profitably harvest fish. They are likely to have smaller catches than others, which puts them at a disadvantage if quotas are allocated in whole or in part on the basis of catch history.

Quota management would require fishers who do not receive quota initially to buy into the fishery; only highly motivated fishers would be able to participate. The cumulative impact of numerous individual sales of quota by fishers in a community could virtually eliminate fishing as an important activity in the community, completely changing its character, unless mechanisms are in place to prevent this. However, quota holders would not be forced to sell quota, and communities interested in retaining a fishing industry could advocate the allocation of quota to the community or make other arrangements with quota holders. Community Development Quotas would be allocated in the proposed ITQ plan for North Pacific sablefish and halibut to address these concerns.

ITQs appear to increase incentives for highgrading, if, on balance, incentives for highgrading, including such things as the price differential for different grades of fish, are sufficient. Costs incurred by highgrading, such as lost time and additional labor costs, may in some cases offset incentives for highgrading. Fish mortality due to bycatch and highgrading must be reduced and counted against TAC in conjunction with ITQ management.

ITQ management has the potential to address the fundamental causes of overfishing: the race for fish, the lack of incentives for conservation, and the presence of incentives for overfishing. Some fisheries will probably not be amenable to ITQ management, and improvements in ITQ program design are clearly needed. However,

continued reliance on open access management and limited entry with input controls is not likely to address the fundamental, debilitating problems many of our fisheries are experiencing.

**\* Individual Transferable Quotas should be actively studied as a viable alternative to open access and limited access with input controls. Criteria for selecting fisheries amenable to ITQ management and for program design are needed, with a focus on maximizing conservation benefits.**

**\* Because some time will be required to assimilate lessons from past and ongoing quota management experience, we recommend that no new quota management programs be initiated for one year. This waiting period is necessary for the evaluation and modification of ongoing programs, and for the incorporation of these lessons into the design of new programs. New quota management programs should be initiated after the evaluation period if they contain provisions to address key problems and promise improvement over existing open access programs in fulfilling the goals of fisheries management: to rebuild depleted fish populations, to allow sustainable levels of harvest of healthy populations, and to prevent detrimental ecological effects of fisheries.**

#### MINIMIZE BYCATCH

Bycatch is a serious problem because fish mortality is poorly documented and uncontrolled, and because large amounts of fish are removed from the ecosystems they are a part of. Measures to deter bycatch and dumping are clearly needed.

EDF strongly supports proposals to expand research into the effects of different gear choices on bycatch, bycatch mortality, and enforcement of bycatch reporting obligations. We also believe that certain types of gear, such as drift nets, should be banned.

**\* A process for systematically evaluating gear and banning gear that is unselective and/or damages habitat is needed.**

However, gear requirements as the only means of controlling bycatch are unlikely to be effective. Indeed, reliance on one type of technological fix will unnecessarily limit the competitive development of alternative bycatch control methods. Other means of bycatch control, including those not wedded to any particular technology, should not be precluded (e.g., season and area restrictions). Furthermore, gear restrictions are difficult to enforce, as evidenced by the lack of compliance with the driftnet ban reported recently.

**\* Incentives to reduce, land, and document bycatch and to reduce dumping (which will result in improved conservation of bycatch species due to improved data) -- as well as severe penalties for dumping -- are needed.**

#### COLLECT USE FEES TO IMPROVE FISHERIES MANAGEMENT

**\* Fees for the use of public fish resources should be collected and used to fund a sustainable fisheries trust fund.**



Experience with other trust funds created through legislation indicates that stringent, earmarked protections are needed to guard against "raids" for redeployment for other purposes. Consequently, the targets and uses of such a trust fund need to be spelled out in some detail, and immunities from budgeting and appropriations wars need to be built into the MFCMA. Priorities also need to be clarified. While funding fisheries research with these fee revenues makes sense, it should be limited. Furthermore, research may not be the highest priority in many cases. Deploying trust fund revenues to reduce overfishing, bycatch dumping, and other serious problems will probably often have much higher payoffs for fisheries conservation goals. One example might be the use of trust funds to induce "early retirement" to reduce fishing effort in overexploited fisheries. Another might be the use of funds to reimburse fisher costs or otherwise encourage landing – rather than dumping – of bycatch.

## REFORM THE FISHERY MANAGEMENT COUNCILS

Fishery Management Councils set up by the MFCMA have come to be dominated by representatives of the fishing industry. While their expertise and experience are invaluable, many other valid interests must be acknowledged and accommodated in the decision making process. The inclusion of people with no financial stake in the fisheries managed by the Council and who represent the interests of the community at large, environmental interests, and other valid interests would increase the objectivity of Council deliberations and votes, and increase the sensitivity of Council decisions to these interests.

**\* The MFCMA should require that some minimum number or proportion of Council voting members should have no affiliation with user groups or government agencies.**

Conflicts of interest may be a symptom of open access management: every year, Council members are asked to vote on how much of the allowable catch will be allotted to various users, including their own constituents. The initial allocation of individual transferable quotas, using an equitable allocation formula worked out and agreed upon by all users and other stakeholders, would provide a more objective and less politicized allocation process. Market forces would allocate quota after the initial allocation.

## PROTECT FISH HABITAT

Complex ecosystems interact to support the development of fish populations. The structure and function of these ecosystems must therefore be protected if fish populations are to remain viable. Restrictions on harvest cannot ensure healthy fish populations or sustainable yield if the supporting ecosystems are impaired. These ecosystems include wetlands, estuaries, embayments, coastal waters, and the open ocean. The habitats used by anadromous and catadromous fishes such as salmon, steelhead, shad, and eels are even more diverse, including rivers, streams, and watersheds as well as marine and estuarine ecosystems.

Human activities have impacted all of these habitats, and in many cases, human-induced habitat impairment or destruction has led directly to the biological and commercial extinction of living marine resources. Protection of fish habitat would

yield enormous economic and ecologic benefits in addition to those accruing to fisheries. By protecting fish habitat, we will also protect the biological diversity, numerous services, economic outputs, and aesthetic value of whole watersheds and coastal zones. Such comprehensive ecosystem protection also holds the greatest promise for preventing the precipitous declines in natural populations that trigger restrictions imposed by the Endangered Species Act.

The MFCMA does not give fisheries managers direct control over activities that impair or destroy fish habitat, even though these activities have a direct impact on fisheries. Agencies with jurisdiction over harmful activities often are not focused on protecting fish habitat. Greater coordination between government agencies, land use authorities, fisheries management councils, and those whose activities harm fish habitat is needed. The conventional exclusive focus by managers on one or a few species, or a few aspects of ecosystem structure or function, is inadequate. Ecosystem management is needed, in which the goal is to protect resources, biological diversity, and sustainable economic activity across jurisdictional boundaries, at a variety of geographic scales.

**\* The MFCMA should mandate interagency coordination to protect fish habitat on an ecosystem management basis.**



**LOUIS KEMP**  
**SEAFOOD CO.**

Arctic Alaska Fisheries Corporation 1900 West Nickerson Street, Suite 200 • P.O. BOX 79021 • Seattle, WA 98119 • Phone (206) 282-3445

### **Tyson Seafood Group**

September 20, 1993

The Honorable Gerry E. Studds  
Chairman of The Committee on Merchant Marine and Fisheries  
U.S. House of Representatives  
Room 1334, Longworth House Office Building  
Washington, DC 20515-6230

RE: Question for the record from Congresswomen Maria Cantwell for the  
Committee on Merchant Marine and Fisheries field hearing on the  
reauthorization of the Magnuson Fishery Conservation and Management Act.

Dear Congressman Studds:

Are the nations fishery resources the property of the commons?

Yes, I believe the nation's fishery resources could be considered as property of the commons just as fossil fuels, timber and federally owned lands are. However, there are differences among the various resources that dictate how the government should manage them to ensure long term benefits and the conservation of each resource.

Fish, which are a renewable resource, need to be managed differently than oil, gas, coal which are non-renewable resources. In the case of federal lands, the Government has determined some of those lands are best utilized as grazing lands for livestock, some for public recreation and other lands for timber harvesting. With respect to the fishery resources within the U.S. Exclusive Economic Zone, the management goals and objectives are determined by the eight regional fishery management council under authority of the Magnuson Fishery Conservation and Management Act. History has shown that the intense commercial development encouraged by the MFCMA has created a system which is now overcapitalized, wasteful and threatens the health of the resource in many areas of the nation.

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Congressman Gerry E. Studds

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September 20, 1993

It is our belief that a market driven rationalization systems should be encouraged which allocates transferable harvest opportunity to qualified historical participants. Ownership of harvest rights would encourage better stewardship and utilization than the current olympic system where too many fishermen race for the fish in shorter and shorter seasons. The present management system does little to safeguard the economic health of the industry which depends on productive fisheries. It also falls short in many instances with regard to managing for the long term viability of the resource.

To summarize, while I believe the nations fishery resources are the property of the commons, I also believe that Government has a responsibility to focus on and correct those fisheries which are mismanaged. The instability which has resulted from the current system is costing the commons millions of dollars in lost revenue and threatens the long-term health of the resource.

Thank you for the opportunity to comment on this important issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Jensen", with a stylized flourish at the end.

Ronald Jensen

Director, Tyson Foods, Inc.



RESPONSE BY KATE GRAHAM  
TO THE QUESTION FOR THE RECORD  
SUBMITTED BY CONGRESSWOMAN MARIA CANTWELL

COMMITTEE ON MERCHANT MARINE AND FISHERIES  
U.S. HOUSE OF REPRESENTATIVES

Portland, Oregon  
10 August 1993

Question: Are the nation's fishery resources the property of the commons?

#### Management of a Common Property Resource

Our nation's fisheries are indeed a common property resource. It is therefore the duty of our federal government to manage these resources for the greatest benefit of our nation as a whole.

When writing the Magnuson Act, Congress determined that our resources would be managed most effectively by drawing on the knowledge and experience of people in the regions near the fisheries. Regional fishery councils were created to make management recommendations to the Secretary of Commerce, who retains the final decision-making authority. Under council management, West Coast fish stocks are generally healthy. This unique management regime has been in effect for a relatively brief period and the successes already outweigh the failures. Our association supports the council process and continuation of the present balance of authority between the Secretary and the councils.

#### Council Membership

It has been suggested that councils should have fewer active participants in the fishing industry than at present. In their place, some propose appointing individuals such as scientists and environmentalists who are knowledgeable about, but have no financial interest in, the fisheries. Financial interests, however, come in many forms, not all of which are immediately apparent. For instance, fishery scientists often work for entities, such as universities, that depend on funding from various interest groups to carry out research programs. Environmental groups often base their fund-raising campaigns on fisheries issues. These financial interests are no less real than those of commercial or recreational fishermen.

An alternative that has been proposed is to appoint council

members who have no ties whatever to the fisheries. This suggests the criterion for council membership should be an absence of knowledge and experience, which would prove a serious handicap to effective management of our nation's extremely complex fisheries.

Because there are no easy solutions to the problems facing fishery managers, it is the duty of Congress, the Department of Commerce, and the state governors to be certain the council members are the most knowledgeable people available, and those of the highest caliber.

#### Limiting Access to the Fisheries

There has been a growing trend around the country towards limiting access to the common property resource, always a controversial subject. The drafters of the Magnuson Act, a remarkably far-sighted piece of legislation, foresaw the need for limited entry to protect the health of the fisheries and provided a list of standards that must be followed in developing such programs. These criteria were intended to ensure that the benefits would accrue to the nation as a whole, rather than to any one state or narrow group of interests. Achieving this balance is no small task and, in general, we believe the councils and the Secretary have accomplished it to the betterment of both the resource and the fisherman whose livelihoods depend on it.

Except for the few fisheries that have some form of limited access, all others operate under the Olympic system, a first-come-first-served approach. The race for fish this has engendered has resulted in overcapitalization of both harvesting and processing capacity nationwide. In consequence, there is increasing pressure on the resource and decreasing stability in the industry. Our association is a strong supporter of an individual quota system for harvesters, because we believe it will stop the race for target species while providing greater individual accountability regarding bycatch and discard of non-target species.

Much of the controversy surrounding programs such as individual quota systems concerns the public policy issue of ownership of the resource. Our association favors an individual quota system that conveys only a fishing privilege, not an entitlement. The quotas can be revoked by the government for just cause at any time without compensation. In addition, the federal government should continue to establish harvest limits, and each individual quota should be expressed as a percentage of the annual harvest level, not as a guaranteed tonnage. The advantage of such a system lies in the increased order and stability that is brought to the fishery, allowing a greater possibility to earn a living while protecting the health of the resource. We think Congress should express strong support for any system that achieves these ends.

Several of the points above are addressed in my written testimony submitted to the committee for the field hearing, and I appreciate this opportunity to expand on them.

P. O. BOX 569, ASTORIA, OR 97103-0569  
TELEPHONE (503) 325-3384  
FAX (503) 325-4416

TO: U.S. House, Committee on Merchant Marine and Fisheries, Subcommittee on Environment and Natural Resources.

DATE: September 13, 1993

SUBJECT: Question from Congresswoman Cantwell for inclusion in the record of field hearing on the reauthorization of the Magnuson Act.

|||||

Question: Are the nations fishery resources the property of the commons?

Answer: I assume by the phrase "property of the commons" you mean a public resource that anyone can access. If that is what you meant, my answer is that there is no law that holds it so, that I know of. The courts have held up several plans that have restricted access to the resource. Limited Entry plans and even some individual transferable quota plans. Much of the resources in this nation were once the property of the commons but no longer are, timber, minerals, oil, water, and grazing land. Fish and game are just the last of these natural resources held to be property of the commons by many people.

These are valuable resources that need good management and a lot of thought about how and who will access them. One of the key issues will be how do you view the use of natural resources and the economics coming from them. Are you a capitalist, or are you a socialist. If you are a capitalist you provide some kind of ownership, if you are a socialist you keep all ownership in the hands of government and limit access through some kind of effort control and probably limit economic return. I do not know where fisheries will come out, both kinds of philosophy are at work at the present. I myself am a capitalist in philosophy.

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